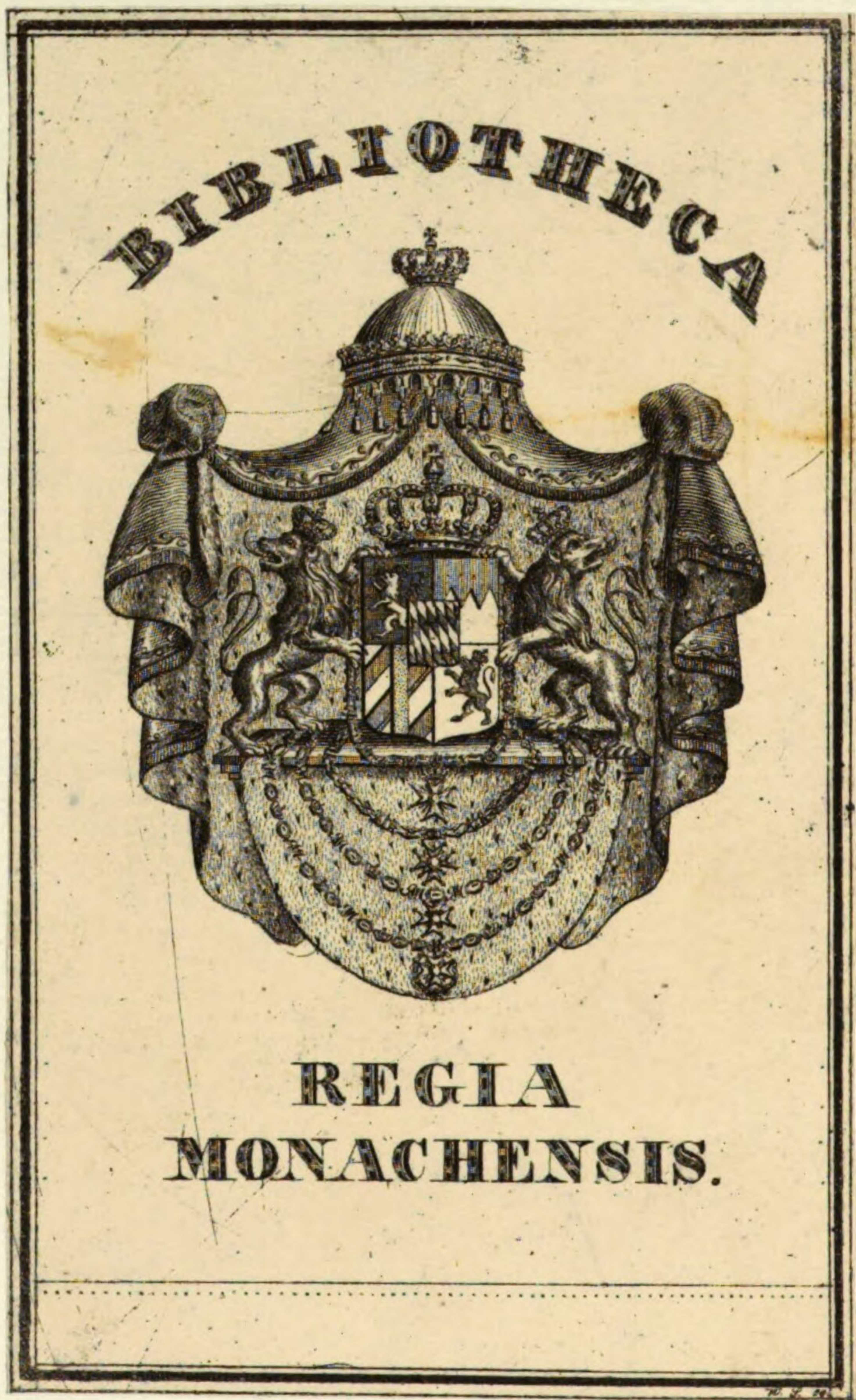


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VIEW
STATE OF EUROPE

STATE OF EUROPE

DURING THE

MIDDLE AGES.

VOL. I.

By HENRY HALLAM, Esq.

JOHN MURRAY, 15, N. B. STREET.

1818.

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V I E W

OF THE

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IN TWO VOLUMES

VOL. I

By HENRY HALLAM, Esq.

VOL. I

LONDON

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V I E W

OF THE

P R E F A C E
STATE OF EUROPE

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THE MIDDLE AGES.

IN TWO VOLUMES.

By HENRY HALLAM, Esq.

Εκ Χάος δ' Ερεβός 1ε μέλαινά 1ε Νύξ ἐγένοντο·
Νυκλὸς δ' αὖτ' Αἰθήρ 1ε καὶ Ἡμέρη ἐξεγένοντο.

ΗΣΙΟΔΟΣ.

VOL. I.

LONDON.

JOHN MURRAY, ALBEMARLE-STREET.

1818.

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V I E W

OF THE

PRESENT STATE OF EUROPE

DURING

THE MIDDLE AGES.

BIBLIOTHECA

REGIA

MONACENSIS

VOL. I.

1618.

P R E F A C E.

It is the object of the present work to exhibit, in a series of historical dissertations, a comprehensive survey of the chief circumstances that can interest a philosophical inquirer during the period usually denominated the Middle Ages. Such an undertaking must necessarily fall under the class of historical abridgements; yet there will perhaps be found enough to distinguish it from such as have already appeared. Many considerable portions of time, especially before the twelfth century, may justly be deemed so barren of events worthy of remembrance, that a single sentence or paragraph is often sufficient to give the character of entire generations, and of long dynasties of obscure kings.

Non ragioniam di lor, ma guarda e passa.

And even in the more pleasing and instructive parts of this middle period, it has been my object to avoid the

dry composition of annals, and aiming, with what spirit and freedom I could, at a just outline rather than a miniature, to suppress all events that did not appear essentially concatenated with others, or illustrative of important conclusions. But as the modes of government and constitutional laws which prevailed in various countries of Europe, and especially in England, seemed to have been less fully dwelt upon in former works of this description than military or civil transactions, while they were deserving of far more attention, I have taken pains to give a true representation of them, and in every instance to point out the sources from which the reader may derive more complete and original information.

Nothing can be farther from my wishes than that the following pages should be judged according to the critical laws of historical composition. Tried in such a balance they would be eminently defective. The limited extent of this work, compared with the subjects it embraces, as well as its partaking more of the character of political dissertation than of narrative, must necessarily preclude that circumstantial delineation of events and of characters, upon which the beauty as well as usefulness of a regular history so mainly depends. Nor can I

venture to assert that it will be found altogether perspicuous to those who are destitute of any previous acquaintance with the period to which it relates; though I have only pre-supposed, strictly speaking, a knowledge of the common facts of English history, and have endeavoured to avoid, in treating of other countries, those allusive references, which imply more information in the reader than the author designs to communicate. But the arrangement which I have adopted has sometimes rendered it necessary to anticipate both names and facts, which are to find a more definite place in a subsequent part of the work.

This arrangement is probably different from that of any former historical retrospect. Every chapter of the following volumes completes its particular subject, and may be considered in some degree as independent of the rest. The order, consequently, in which they are read will not be very material, though of course I should rather prefer that in which they are at present disposed. A solicitude to avoid continual transitions, and to give free scope to the natural association of connected facts, has dictated this arrangement, to which I confess myself partial. And I have found its incon-

veniences so trifling in composition, that I cannot believe they will occasion much trouble to the reader.

The first chapter comprizes the history of France from the invasion of Clovis to the expedition, *exclusively*, of Charles VIII. against Naples. It is not possible to fix accurate limits to the Middle Ages; but though the ten centuries from the fifth to the fifteenth seem, in a general point of view, to constitute that period, a less arbitrary division was necessary to render the commencement and conclusion of an historical narrative satisfactory. The continuous chain of transactions on the stage of human society is ill divided by mere lines of chronological demarcation. But as the subversion of the western empire is manifestly the natural termination of ancient history, so the establishment of the Franks in Gaul appears the most convenient epoch for the commencement of a new period. Less difficulty occurred in finding the other limit. The invasion of Naples by Charles VIII. was the event that first engaged the principal states of Europe in relations of alliance or hostility which may be deduced to the present day, and is the point at which every man who traces backwards its political history will be obliged to pause. It furnishes

a determinate epoch in the annals of Italy and France, and nearly coincides with events which naturally terminate the history of the middle ages in other countries.

The feudal system is treated in the second chapter, which I have subjoined to the history of France, with which it has a near connexion. Inquiries into the antiquities of that jurisprudence occupied more attention in the last age than at present, and their dryness may prove repulsive to many readers. But there is no royal road to the knowledge of law; nor can any man render an obscure and intricate disquisition either perspicuous or entertaining. That the feudal system is an important branch of historical knowledge will not be disputed, when we consider not only its influence upon our own constitution, but that one of the parties which at present divide a neighbouring kingdom professes to appeal to the original principles of its monarchy, as they subsisted before the subversion of that polity.

The four succeeding chapters contain a sketch, more or less rapid and general, of the histories of Italy, of Spain, of Germany, and of the Greek and Saracenic empires. In the seventh I have endeavoured to develop

the progress of ecclesiastical power, a subject eminently distinguishing the Middle Ages, and of which a concise and impartial delineation has long been desirable.

The English constitution furnishes materials for the eighth chapter. I cannot hope to have done sufficient justice to this theme, which has cost me considerable labour; but it is worthy of remark, that since the treatise of Nathaniel Bacon, itself open to much exception, there has been no historical development of our constitution, founded upon extensive researches, or calculated to give a just notion of its character. For those parts of Henry's history which profess to trace the progress of government are still more jejune than the rest of his volumes; and the work of Professor Millar of Glasgow, however pleasing from its liberal spirit, displays a fault too common among the philosophers of his country, that of theorizing upon an imperfect induction, and very often upon a total misapprehension of particular facts.

The ninth and last chapter relates to the general state of society in Europe during the middle ages, and comprehends the history of commerce, of manners, and of literature. None however of these are treated in detail,

and the whole chapter is chiefly designed as supplemental to the rest, in order to vary the relations under which events may be viewed, and to give a more adequate sense of the spirit and character of the middle ages.

In the execution of a plan, far more comprehensive than what with a due consideration either of my abilities or opportunities I ought to have undertaken, it would be strangely presumptuous to hope that I can have rendered myself invulnerable to criticism. Even if flagrant errors should not be frequently detected, yet I am aware that a desire of conciseness has prevented the sense of some passages from appearing sufficiently distinct; and though I cannot hold myself generally responsible for omissions, in a work which could only be brought within a reasonable compass by the severe retrenchment of superfluous matter, it is highly probable that defective information, forgetfulness, or too great a regard for brevity have caused me to pass over many things which would have materially illustrated the various subjects of these inquiries.

I dare not, therefore, appeal with confidence to the

tribunal of those superior judges, who having bestowed a more undivided attention on the particular objects that have interested them, may justly deem such general sketches imperfect and superficial; but my labours will not have proved fruitless, if they shall conduce to stimulate the reflection, to guide the researches, to correct the prejudices, or to animate the liberal and virtuous sentiments of inquisitive youth:

Mi satis ampla

Mercēs, et mihi grande decus, sim ignotus in ævum

Tum licet, externo penitusque inglorius orbi.

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VIEW OF THE HISTORY AND GOVERNMENTS OF EUROPE

DURING THE MIDDLE AGES.

CHAPTER I.

THE HISTORY OF FRANCE, FROM ITS CONQUEST BY CLOVIS TO
THE INVASION OF NAPLES BY CHARLES VIII.

PART I.

Fall of the Roman Empire—Invasion of Clovis—First race of French Kings—Accession of Pepin—State of Italy—Charlemagne—His Reign and Character—Louis the Debonair—His Successors—Calamitous state of the Empire in the ninth and tenth centuries—Accession of Hugh Capet—His first Successors—Louis VII.—Philip Augustus—Conquest of Normandy—War in Languedoc—Louis IX.—His Character—Digression upon the Crusades—Philip III.—Philip IV.—Aggrandizement of French Monarchy under his Reign—Reigns of his Children—Question of Salic Law—Claim of Edward III.

BEFORE the conclusion of the fifth century, the mighty fabric of empire, which valour and policy had founded upon the seven hills of Rome, was finally overthrown, in all the west of Europe, by the barbarous nations from the north, whose martial energy and whose numbers were irresistible. A race of men, formerly unknown or despised, had not only shaken to pieces that proud sove-

CHAP.
I.
PART I.
FRANCE.
Subversion
of the Ro-
man Em-
pire.
New settle-
ments of the
barbarous
nations.

CHAP. I. PART I. FRANCE. reignty, but permanently settled themselves in its fairest provinces, and planted their yoke upon the ancient possessors. The Vandals were masters of Africa; the Suevi held part of Spain; the Visigoths possessed the remainder, with a large portion of Gaul; the Burgundians occupied the provinces watered by the Rhone and Saone; the Ostrogoths almost all Italy. The north-west of Gaul, between the Seine and the Loire, some writers have filled with an Armorican republic;* while the remainder was still nominally subject to the Roman empire, and governed by a certain Syagrius, rather with an independent than a deputed authority.

Invasion of Clovis.

A.D. 486

At this time, Clovis, king of the Salian Franks, a tribe of Germans long connected with Rome, and originally settled upon the right bank of the Rhine, but who had latterly penetrated as far as Tournay and Cambray,† invaded Gaul and defeated Syagrius at Soissons. The result of this victory was the subjugation of those provinces which had previously been considered as Roman. But as their allegiance had not been very strict, so their loss was not very severely felt; since the emperors of Constantinople were not too proud to confer upon Clovis the titles of consul and patrician, which he was too prudent to refuse.‡

* It is impossible not to speak sceptically as to this republic, or rather confederation of independent cities under the rule of their respective bishops, which Du Bos has with great ingenuity raised upon very slight historical evidence, and in defiance of the silence of Gregory, whose see of Tours bordered upon their supposed territory. But his hypothesis is not to be absolutely rejected, because it is by no means deficient in internal probability, and the early part of Gregory's history is brief and negligent. Du Bos, *Hist. Critique de l'Etablissement des Français dans les Gaules*, t. i. p. 253. Gibbon, c. 38, after following Du Bos in his text, whispers, as usual, his suspicions in a note.

† The system of Père Daniel, who denies any permanent settlement of the Franks on the left bank of the Rhine before Clovis, seems incapable of being supported. It is difficult to resist the presumption that arises

from the discovery of the tomb and skeleton of Childeric, father of Clovis, at Tournay, in 1653. See Montfaucon, *Monumens de la Monarchie Française*, tome i. p. 10.

‡ The theory of Du Bos, who considers Clovis as a sort of lieutenant of the emperors, and as governing the Roman part of his subjects by no other title, has justly seemed extravagant to later critical inquirers into the history of France. But it may nevertheless be true, that the connexion between him and the empire, and the emblems of Roman magistracy which he bore, reconciled the conquered to their new masters. This is judiciously stated by the Duke de Nivernois. *Mem. de l'Acad. des Inscript.* tome xx. p. 174. In the sixth century, however, the Greeks appear to have been nearly ignorant of Clovis's countrymen. Nothing can be made out of a passage in Procopius, where he seems to mention the Armoricans under

Some years after this, Clovis defeated the Alemanni, or Swabians, in a great battle at Zulpich, near Cologne. In consequence of a vow, as it is said, made during this engagement,* and at the instigation of his wife Clotilda, a princess of Burgundy, he became a convert to Christianity. It would be a fruitless inquiry, whether he was sincere in this change; but it is certain, at least, that no policy could have been more successful. The Arian sect, which had been early introduced among the barbarous nations, was predominant, though apparently without intolerance,† in the Burgundian and Visigoth courts; but the clergy of Gaul were strenuously attached to the Catholic side, and even before his conversion had favoured the arms of Clovis. They now became his most zealous supporters; and were rewarded by him with artful gratitude, and by his descendants with lavish munificence. Upon the pretence of religion, he attacked Alaric, king of the Visigoths, and by one great victory near Poitiers, overthrowing their empire in Gaul, reduced them to the maritime province of Septimania, a narrow strip of coast between the Rhone and the Pyrenees. The last exploits of Clovis were the reduction of certain independent chiefs of his own tribe and family,

CHAP.
I.

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FRANCE.

496

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the name *Αγρόθυχοι*; and Agathias gives a strangely romantic account of the Franks, whom he extols for their conformity to Roman laws, *πολιτεία ὡς τὰ πολλὰ χροῶνται Ρωμαϊκῇ, καὶ νομοῖς τοῖς αὐτοῖς, κ. τ. λ.* He goes on to commend their mutual union, and observes particularly, that in partitions of the kingdom, which had frequently been made, they had never taken up arms against each other, nor polluted the land with civil bloodshed. One would almost believe him ironical.

* Gregory of Tours makes a very rhetorical story of this famous vow, which, though we cannot disprove, it may be permitted to suspect.—L. ii. c. 30.

† Hist. de Languedoc, par Vich et Vaissette, tome i. p. 238. Gibbon, c. 37. A specious objection might be drawn from the history of the Gothic monarchies in Italy, as well as Gaul and Spain, to the great princi-

ples of religious toleration. These Arian sovereigns treated their Catholic subjects, it may be said, with tenderness, leaving them in possession of every civil privilege, and were rewarded for it by their defection or sedition. But in answer to this, it may be observed: 1. That the system of persecution, adopted by the Vandals in Africa, succeeded no better; the Catholics of that province having risen against them upon the landing of Belisarius: 2. That we do not know what insults and discouragements the Catholics of Gaul and Italy may have endured, especially from the Arian bishops, in that age of bigotry; although the administration of Alaric and Theodoric were liberal and tolerant: 3. That the distinction of Arian and Catholic was intimately connected with that of Goth and Roman, of conqueror and conquered; so that it is difficult to separate the effects of national, from those of sectarian, animosity.

CHAP. I. who were settled in the neighbourhood of the Rhine.* All these he
 PART I. put to death by force or treachery, for he was cast in the true
 FRANCE. mould of conquerors, and may justly be ranked among the first of
 his class, both for the splendour and the criminality of his ambition.†

His de-
 scendants.

511

558

613

Clovis left four sons; one illegitimate, born before his conversion; and three by his queen Clotilda. These four made, it is said, an equal partition of his dominions, which comprehended not only France, but the western and central parts of Germany; besides Bavaria, and perhaps Swabia, which were governed by their own dependent, but hereditary, chiefs. Thierry, the eldest, had what was called Austrasia, the eastern or German division, and fixed his capital at Metz; Clodomir, at Orleans; Childebert, at Paris; and Clotaire, at Soissons.‡ During their reigns, the monarchy was aggrandized by the conquest of Burgundy. Clotaire, the youngest brother, ultimately re-united all the kingdoms; but upon his death, they were again divided among his four sons, and brought together a second time, by another Clotaire, the grandson of the first. It is a weary and unprofitable task to follow these changes in detail, through scenes of tumult and bloodshed, in which the eye meets with no sunshine, nor can rest upon any interesting spot. It would be difficult, as Gibbon has justly observed, to find any where more

* Modern historians, in enumerating these *reguli*, call one of them king of Mans. But it is difficult to understand how a chieftain, independent of Clovis, could have been settled in that part of France. In fact, Gregory of Tours, our only authority, does not say that this prince, Regnomeris, was king of Mans, but that he was put to death in that city: *apud Cenomannis civitatem jussu Chlodovechi interfectus est.*

† The reader will be gratified by an admirable memoir, by the Duke de Nivernois, on the policy of Clovis, in the twentieth volume of the Academy of Inscriptions.

‡ *Quatuor filii regnum accipiunt, et inter se æquâ lance dividunt.*—Greg. Tur. l. iii. c. 1. It would rather perplex a geographer to make an equal division of Clovis's empire into portions, of which Paris, Orleans, Metz,

and Soissons, should be the respective capitals. I apprehend, in fact, that Gregory's expression is not very precise. The kingdom of Soissons seems to have been the least of the four, and that of Austrasia the greatest. But the partitions made by these princes were exceedingly complex; insulated fragments of territory, and even undivided shares of cities, being allotted to the worst provided brothers, by way of compensation, out of the larger kingdoms. It would be very difficult to ascertain the limits of these minor monarchies. But the French empire was always considered as one, whatever might be the number of its inheritors; and from accidental circumstances it was so frequently reunited, as fully to keep up this notion.

vice or less virtue. The names of two queens are distinguished even in that age for the magnitude of their crimes: Fredegonde, the wife of Chilperic, of whose atrocities none have doubted; and Brunehaut, queen of Austrasia, who has met with advocates in modern times, less, perhaps, from any fair presumptions of her innocence, than from compassion for the cruel death which she underwent.*

CHAP.
I.
PART I.
FRANCE.

But after Dagobert, son of Clotaire II., the kings of France dwindled into personal insignificance, and are familiarly spoken of by later historians as *insensati*, or idiots.† The whole power of the kingdom devolved upon the mayors of the palace, originally officers of the household, through whom petitions or representations were laid before the king. The weakness of the sovereign rendered this office important, and still greater weakness suffered it to become elective: men of energetic talents and ambition united it with military command; and the history of France, for half a century, presents no names more conspicuous than those of Ebroin and Grimoald, mayors of Neustria and Austrasia—the western and eastern divisions of the French monarchy.‡ These, however, met with violent ends; but a more successful usurper of the royal authority was Pepin Heristal, first mayor, and afterwards duke, of Austrasia; who united

628—
638
Their degeneracy.
Mayors of the palace.

680

* Every history will give a sufficient epitome of the Merovingian dynasty. The facts of these times are of little other importance, than as they impress on the mind a thorough notion of the extreme wickedness of almost every person concerned in them, and consequently of the state to which society was reduced. But there is no advantage in crowding the memory with barbarian wars and assassinations. For the question about Brunehaut's character, who has had partizans almost as enthusiastic as those of Mary of Scotland, the reader may consult Pasquier, *Recherches de la France*, l. viii. or Velly, *Hist. de France*, tome i. on one side, and a dissertation by Gaillard, in the *Memoirs of the Academy of Inscriptions*, tome xxx. on the other. The last is unfavourable to Brunehaut, and perfectly satisfactory to my judgment.

† An ingenious attempt is made by the

Abbé Vertot, *Mem. de l'Académie*, tome vi. to rescue these monarchs from this long-established imputation. But the leading fact is irresistible, that all the royal authority was lost during their reigns. However, the best apology seems to be, that after the victories of Pepin Heristal, the Merovingian kings were, in effect, conquered, and their inefficiency was a matter of necessary submission to a master.

‡ The original kingdoms of Soissons, Paris, and Orleans, were consolidated into that denominated Neustria, to which Burgundy was generally appendant, though distinctly governed by a mayor of its own election. But Aquitaine, the exact bounds of which I do not know, was, from the time of Dagobert I., separated from the rest of the monarchy, under a ducal dynasty, sprung from Aribert, brother of that monarch.

CHAP. with almost an avowed sovereignty over that division, a paramount
 I. command over the French, or Neustrian provinces, where nominal
 PART I. kings of the Merovingian family were still permitted to exist. This
 FRANCE. authority he transmitted to a more renowned hero, his son Charles
 Martel, who, after some less important exploits, was called upon to
 encounter a new and terrible enemy. The Saracens, having swept
 over Spain, had penetrated into the very heart of France. Charles
 Martel gained a complete victory over them between Tours and
 732 Poitiers,* in which 300,000 Mohammedans are fabled to have fallen.
 The reward of this victory was the province of Septimania, which
 the Saracens had conquered from the Visigoths.†

Change in
 the royal
 family. Ac-
 cession of
 Pepin.

752

Such powerful subjects were not likely to remain long contented
 without the crown; but the circumstances under which it was
 transferred from the race of Clovis are connected with one of the
 most important revolutions in the history of Europe. The mayor
 Pepin, inheriting his father Charles Martel's talents and ambition,
 made, in the name and with the consent of the nation, a solemn
 reference to the pope Zacharias, as to the deposition of Childeric III.
 under whose nominal authority he himself was reigning. The deci-
 sion was favourable,—that he who possessed the power, should also
 bear the title of king. The unfortunate Merovingian was dismissed
 into a convent, and the Franks, with one consent, raised Pepin to the

* Tours is above seventy miles distant from Poitiers; but I do not find that any French antiquary has been able to ascertain the place of this great battle with more precision, which is remarkable, since, after so immense a slaughter, we should expect the testimony of 'grandia effossis ossa sepulcris.'

The victory of Charles Martel has immortalized his name, and may justly be reckoned among those few battles, of which a contrary event would have essentially varied the drama of the world in all its subsequent scenes; with Marathon, Arbela, the Metaurus, Chalons, and Leipsic. Yet do we not judge a little too much by the event, and follow, as usual, in the wake of fortune? Has not more frequent experience condemned

those who set the fate of empires upon a single cast, and risk a general battle with invaders, whose greater peril is in delay? Was not this the fatal error by which Roderic had lost his kingdom? Was it possible that the Saracens could have retained any permanent possession of France, except by means of a victory? And did not the contest upon the broad champaign of Poitou afford them a considerable prospect of success, which a more cautious policy would have withheld?

† This conquest was completed by Pepin in 759. The inhabitants preserved their liberties by treaty, and Vaissette deduces from this solemn assurance the privileges of Languedoc.—Hist. de Lang. tome i. p. 412.

throne, the founder of a more illustrious dynasty. In order to judge of the importance of this revolution to the see of Rome, as well as to France, we must turn our eyes upon the affairs of Italy.

The dominion of the Ostrogoths was annihilated by the arms of Belisarius and Narses in the sixth century, and that nation appears no more in history. But not long afterwards the Lombards, a people for some time settled in Pannonia, not only subdued that northern part of Italy which has retained their name, but, extending themselves southward, formed the powerful duchies of Spoleto and Benevento. The residence of their kings was in Pavia; but the hereditary vassals, who held those two duchies, might be deemed almost independent sovereigns.* The rest of Italy was governed by exarchs, deputed by the Greek emperors, and fixed at Ravenna. In Rome itself, neither the people, nor the bishops, who had already conceived in part their schemes of ambition, were much inclined to brook the superiority of Constantinople; but their disaffection was counter-balanced by the inveterate hatred, as well as jealousy, with which they regarded the Lombards. But an impolitic and intemperate persecution, carried on by two or three Greek emperors against a favourite superstition, the worship of images, excited commotions throughout Italy, of which the Lombards took advantage, and easily wrested the exarchate of Ravenna from the eastern empire. It was far from the design of the popes to see their nearest enemies so much aggrandized; and any effectual assistance from the emperor Constantine Copronymus would have kept Rome still faithful. But having no hope from his arms, and provoked by his obstinate intolerance, the pontiffs had recourse to France;† and the service they had rendered to Pepin led to reciprocal obligations of the

CHAP.

I.

PART I.

FRANCE.

The Lombards.

They reduce the exarchate of Ravenna

752

which Pepin re-conquers, and bestows on the pope.

* The history, character, and policy of the Lombards, are well treated by Gibbon, c. 45. See, too, the fourth and fifth books of Giannone, and some papers by Gaillard in the *Memoirs of the Academy of Inscriptions*, tomes xxxii. xxxv. xlv.

† There had been some previous over-

tures to Charles Martel, as well as to Pepin himself; the habitual sagacity of the court of Rome perceiving the growth of a new western monarchy, which would be, in faith and arms, their surest ally. Muratori, *Ann. d'Ital.* A. D. 741.

CHAP. greatest magnitude. At the request of Stephen II. the new king of
 I. France descended from the Alps, drove the Lombards from their
 PART I. recent conquests, and conferred them upon the pope. This memo-
 FRANCE. rable donation nearly comprised the modern provinces of Romagna
 754 and the March of Ancona.*

Charle-
 magne.

768

The state of Italy, which had undergone no change for nearly two centuries, was now rapidly verging to a great revolution. Under the shadow of a mighty name, the Greek empire had concealed the extent of its decline. That charm was now broken; and the Lombard kingdom, which had hitherto appeared the only competitor in the lists, proved to have lost its own energy in awaiting the occasion for its display. France was far more than a match for the power of Italy, even if she had not been guided by the towering ambition and restless activity of the son of Pepin. It was almost the first exploit of Charlemagne, after the death of his brother Carloman had reunited the Frankish

772

He con-
 quers Lom-
 bardy;

empire under his dominion,† to subjugate the kingdom of Lombardy. Neither Pavia nor Verona, its most considerable cities, interposed any material delay to his arms; and the chief resistance he

774

part of
 Spain;

encountered was from the dukes of Friuli and Benevento, the latter of whom could never be brought into much subjection to the conqueror. Italy, however, be the cause what it might, seems to have tempted Charlemagne far less than the dark forests of Germany. For neither the southern provinces, nor Sicily, could have withstood his power, if it had been steadily directed against them. Even Spain hardly drew so much of his attention, as the splendour of the prize might have excited. He gained however a very important accession to his empire, by conquering from the Saracens the territory contained between the Pyrenees and the Ebro. This was formed into

* Giannone, l. v. c. 2.

† Carloman, younger brother of Charles, took the Austrasian, or German, provinces of the empire. The custom of partition was so fully established, that those wise and ambitious princes, Charles Martel, Pepin, and

Charlemagne himself, did not venture to thwart the public opinion by introducing primogeniture. Carloman would not long have stood against his brother; who, after his death, usurped the inheritance of his two infant children.

the Spanish March, governed by the count of Barcelona, part of which at least must be considered as appertaining to France till the twelfth century.*

CHAP.
I.
PART I.
FRANCE.

But the most tedious and difficult atchievement of Charlemagne, was the reduction of the Saxons. The wars with this nation, who occupied nearly the modern circles of Westphalia and Lower Saxony, lasted for thirty years. Whenever the conqueror withdrew his armies, or even his person, the Saxons broke into fresh rebellion; which his unparalleled rapidity of movement seldom failed to crush without delay. From such perseverance on either side, destruction of the weaker could alone result. A large colony of Saxons were finally transplanted into Flanders and Brabant, countries hitherto ill-peopled, in which their descendants preserved the same unconquerable spirit of resistance to oppression. Many fled to the kingdoms of Scandinavia, and mingling with the Northmen, who were just preparing to run their memorable career, revenged upon the children and subjects of Charlemagne the devastation of Saxony. The remnant embraced Christianity, their aversion to which had been the chief cause of their rebellions, and acknowledged the sovereignty of Charlemagne; a submission, which even Witikind, the second Arminius of Germany, after such irresistible conviction of her destiny, did not disdain to make. But they retained, in the main, their own laws; they were governed by a duke of their own nation, if not of their own election, and for many ages they were distinguished by their original character among the nations of Germany.

The successes of Charlemagne on the eastern frontier of his empire against the Slavonians of Bohemia, and Huns or Avars of

* The counts of Barcelona always acknowledged the feudal superiority of the kings of France, till, some time after their title had been merged in that of kings of Aragon. In 1180, legal instruments executed in Catalonia ceased to be dated by the year of the king of France; and as there certainly re-

mained no other mark of dependence, the separation of the principality may be referred to that year. But the rights of the French crown over it were finally ceded by Louis IX. in 1258. De Marca, *Marca Hispanica*, p. 514. Art de vérifier les Dates, t. ii. p. 291.

CHAP. Pannonia, though obtained with less cost, were hardly less eminent.

I.
PART I.
FRANCE.

Extent of his
dominions.

In all his wars, the newly conquered nations, or those whom fear had made dependent allies, were employed to subjugate their neighbours; and the incessant waste of fatigue and the sword was supplied by a fresh population that swelled the expanding circle of dominion. I do not know that the limits of the new western empire are very exactly defined by contemporary writers, nor would it be easy to appreciate the degree of subjection in which the Slavonian tribes were held. As an organized mass of provinces, regularly governed by imperial officers, it seems to have been nearly bounded, in Germany, by the Elbe, the Saale, the Bohemian mountains, and a line drawn from thence crossing the Danube above Vienna, and prolonged to the gulf of Istria. Part of Dalmatia was comprized in the duchy of Friuli. In Italy, the empire extended not much beyond the modern frontier of Naples, if we exclude, as was the fact, the duchy of Benevento from any thing more than a titular subjection. The Spanish boundary, as has been said already, was the Ebro.*

His coronation as Emperor.

800

A seal was put to the glory of Charlemagne, when Leo III., in the name of the Roman people, placed upon his head the imperial crown. His father, Pepin, had borne the title of patrician, and he had himself exercised, with that title, a regular sovereignty over Rome.† Money was coined in his name, and an oath of fidelity was taken by the clergy and people. But the appellation of Em-

* I follow in this the map of Koch, in his *Tableau des Révolutions de l'Europe*, tom. i. That of Vaugondy, Paris, 1752, includes the dependent Slavonic tribes, and carries the limit of the empire to the Oder and frontiers of Poland. The authors of *L'Art de vérifier les Dates* extend it to the Raab. It would require a long examination to give a precise statement.

† The Patricians of the lower empire were governors sent from Constantinople to the provinces. Rome had long been accustomed to their name and power. The subjection of the Romans, both clergy and

laity, to Charlemagne, as well before as after he bore the imperial name, seems to be established. See *Dissertation Historique*, par le Blanc, subjoined to his *Traité des Monnoyes de France*, p. 18, and St. Marc, *Abrégé Chronologique de l'Histoire de l'Italie*, t. i. The first of these writers does not allow that Pepin exercised any authority at Rome. A good deal of obscurity rests over its internal government for near fifty years; but there is some reason to believe that the nominal sovereignty of the Greek emperors was not entirely abrogated. Muratori, *Annali d'Italia*, ad ann. 772. St.

peror seemed to place his authority over all his subjects on a new footing. It was full of high and indefinite pretension, tending to overshadow the free election of the Franks by a fictitious descent from Augustus. A fresh oath of fidelity to him as emperor was demanded from his subjects. His own discretion, however, prevented him from affecting those more despotic prerogatives, which the imperial name might still be supposed to convey.

CHAP.
I.
PART I.
FRANCE.

In analyzing the characters of heroes, it is hardly possible to separate altogether the share of fortune from their own. The epoch made by Charlemagne in the history of the world, the illustrious families which prided themselves in him as their progenitor, the very legends of romance, which are full of his fabulous exploits, have cast a lustre around his head, and testify the greatness that has embodied itself in his name. None indeed of Charlemagne's wars can be compared with the Saracenic victory of Charles Martel; but *that* was a contest for freedom, *his* for conquest; and fame is more partial to successful aggression than to patriotic resistance. As a scholar, his acquisitions were probably little superior to those of his unrespected son; and in several points of view the glory of Charlemagne might be extenuated by an analytical dissection.* But rejecting a mode of judging, equally uncandid and fallacious, we shall find that he possessed in every thing that grandeur of conception, which distinguishes extraordinary minds. Like Alexander, he seemed born for universal innovation: in a life restlessly active, we see him reforming the coinage, and establishing the legal divisions of money; gather-

His character.

Marc, t. i. p. 356. 372. A mosaic, still extant in the Lateran palace, represents our Saviour giving the keys to St. Peter with one hand, and with the other, a standard to a crowned prince, bearing the inscription, Constantine V. But Constantine V. did not begin to reign till 780; and if this piece of workmanship was made under Leo III., as the authors of *L'Art de vérifier les Dates* imagine, it could not be earlier than 795. T. i. p. 262. Muratori, ad ann. 798. However this may be, there can be no question,

that a considerable share of jurisdiction and authority was practically exercised by the popes during this period. Vid. Murat. ad ann. 789.

* Eginhard attests his ready eloquence, his perfect mastery of Latin, his knowledge of Greek, so far as to read it, his acquisitions in logic, grammar, rhetoric and astronomy. But the anonymous author of the life of Louis the Debonair attributes most of these accomplishments to that unfortunate prince.

CHAP. ing about him the learned of every country ; founding schools and
 I. collecting libraries ; interfering, but with the tone of a king, in reli-
 PART I. gious controversies ; aiming, though prematurely, at the formation
 FRANCE. of a naval force ; attempting, for the sake of commerce, the magnifi-
 cent enterprize of uniting the Rhine and Danube,* and meditating
 to mould the discordant codes of Roman and barbarian laws into
 an uniform system.

The great qualities of Charlemagne were indeed alloyed by the
 vices of a barbarian and a conqueror. Nine wives, whom he di-
 vorced with very little ceremony, attest the license of his private
 life, which his temperance and frugality can hardly be said to re-
 deem.† Unsparing of blood, though not constitutionally cruel, and
 wholly indifferent to the means which his ambition prescribed, he
 beheaded in one day 4,000 Saxons ; an act of atrocious butchery,
 after which his persecuting edicts, pronouncing the pain of death
 against those who refused baptism, or even who ate flesh during Lent,
 seem scarcely worthy of notice. This union of barbarous ferocity
 with elevated views of national improvement, might suggest the
 parallel of Peter the Great. But the degrading habits, and brute
 violence of the Moscovite place him at an immense distance from
 the restorer of the empire.

A strong sympathy for intellectual excellence was the leading cha-
 racteristic of Charlemagne, and this undoubtedly biassed him in the
 chief political error of his conduct, that of encouraging the power
 and pretensions of the hierarchy. But, perhaps, his greatest eulogy
 is written in the disgraces of succeeding times, and the miseries of
 Europe. He stands alone like a beacon upon a waste, or a rock in
 the broad ocean. His sceptre was as the bow of Ulysses, which

* See an essay upon this project in the
 Memoirs of the Academy of Inscriptions,
 tome xviii. The rivers which were designed
 to form the links of this junction, were the
 Altmuhl, the Regnitz, and the Main ; but
 their want of depth, and the spunginess of
 the soil, appear to present insuperable im-
 pediments to its completion.

† I apprehend that there is no foundation
 for the charge of an incestuous passion for
 his daughters, which Voltaire calls *une foi-
 blesse*. The error seems to have originated in
 a mis-interpreted passage of Eginhard. These
 ladies, indeed, were far from being models of
 virtue, and their lives brought scandal upon
 the royal palace.

could not be drawn by any weaker hand. In the dark ages of CHAP. European history, the reign of Charlemagne affords a solitary resting-place between two long periods of turbulence and ignominy, deriving the advantages of contrast both from those of the preceding dynasty, and of a posterity for whom he had formed an empire which they were unworthy and unequal to maintain.*

I.
PART I.
FRANCE.

Pepin, the eldest son of Charlemagne, died before him, leaving a natural son, named Bernard.† Even if he had been legitimate, the right of representation was not at all established during these ages; indeed the general prejudice seems to have inclined against it. Bernard, therefore, kept only the kingdom of Italy, which had been transferred to his father; while Louis, the younger son of Charlemagne, inherited the Empire. But, in a short time, Bernard, having attempted rebellion against his uncle, was sentenced to lose his eyes, which occasioned his death; a cruelty more agreeable to the prevailing tone of manners, than to the character of Louis, who bitterly reproached himself for the severity he had been persuaded to use.

Louis the
Débonair.
814

Under this prince, called by the Italians the Pious, and by the French, the Débonair or Good-natured,‡ the mighty structure of his father's power began rapidly to decay. I do not know that Louis deserves so much contempt as he has undergone; but historians have in general more indulgence for splendid crimes, than for the weaknesses of virtue. There was no defect in Louis's understanding or courage; he was accomplished in martial exercises, and in all the learning which an education excellent for that age could supply. Nobody was ever more anxious to reform the abuses of administra-

817

* The Life of Charlemagne, by Gaillard, without being made perhaps so interesting as it ought to have been, presents an adequate view of both his actions and character. Schmidt, Hist. des Allemands, tome ii. appears to me a superior writer.

† A contemporary writer, Thegan, ap. Muratori, A. D. 810, asserts that Bernard was born of a concubine. I do not know why modern historians represent it otherwise.

‡ These names, as a French writer observes, meant the same thing. *Pius* had, even in good Latin, the sense of *mitis*, meek, forbearing, or what the French call *débonair*. Synonymes de Roubaud, tom. i. p. 257. Our English word *debonair* is hardly used in the same sense, if indeed it can be called an English word; but I have not altered Louis's appellation, by which he is so well known.

CHAP. I. PART I. FRANCE. tion; and whoever compares his capitularies with those of Charlemagne, will perceive, that, as a legislator, he was even superior to his father. The fault lay entirely in his heart; and this fault was nothing but a temper too soft, and a conscience too strict.* It is not wonderful that the empire should have been speedily dissolved; a succession of such men as Charles Martel, Pepin and Charlemagne could alone have preserved its integrity; but the misfortunes of Louis and his people were immediately owing to the following errors of his conduct.

His misfortunes and errors.

817

718

Soon after his accession, Louis thought fit to associate his eldest son Lothaire to the empire, and to confer the provinces of Bavaria and Aquitaine, as subordinate kingdoms, upon the two younger, Louis and Pepin. This step was, in appearance, conformable to his father's policy, who had acted towards himself in a similar manner. But such measures are not subject to general rules, and exact a careful regard to characters and circumstances. The principle, however, which regulated this division was learned from Charlemagne,† and could alone, if strictly pursued, have given unity and permanence to the empire. The elder brother was to preserve his superiority over the others, so that they should neither make peace nor war, nor even give answer to ambassadors without his consent. Upon the death of either, no further partition was to be made; but such one of his children as might become the popular choice, was to inherit the whole kingdom, under the same superiority of the head of the family.‡ This compact was, from the beginning, disliked by the younger brothers; and an event, upon which Louis does not seem to have calculated, soon disgusted his colleague Lothaire. Judith of

* Schmidt, Hist. des Allemands, tom. ii. has done more justice than other historians to Louis's character. Vaissette attests the goodness of his government in Aquitaine, which he held as a subordinate kingdom during his father's life. It extended from the Loire to the Ebro, so that the trust was not contemptible.—Hist. de Languedoc, tom. i. p. 476.

† Charlemagne had made a prospective arrangement in 806, the conditions of which are nearly the same as those of Louis; but the death of his two elder sons, Charles and Pepin, prevented its taking effect. Baluz. Capitularia, p. 441.

‡ Baluzii Capitularia, tom. i. p. 575.

Bavaria, the emperor's second wife, an ambitious woman, bore him a son, Charles, whom both parents were naturally anxious to place on an equal footing with his brothers. But this could only be done at the expense of Lothaire, who was ill-disposed to see his empire still further dismembered for this child of a second bed. Louis passed his life in a struggle with three undutiful sons, who abused his paternal kindness by constant rebellions.

These were rendered more formidable by the concurrence of a different class of enemies whom it had been another error of the emperor to provoke. Charlemagne had assumed a thorough control and supremacy over the clergy; and his son was perhaps still more vigilant in chastizing their irregularities, and reforming their rules of discipline. But to this, which they had been compelled to bear at the hands of the first, it was not equally easy for the second to obtain their submission. Louis therefore drew on himself the inveterate enmity of men, who united with the turbulence of martial nobles, a skill in managing those engines of offence which were peculiar to their order, and to which the implicit devotion of his character laid him very open. Yet after many vicissitudes of fortune, and many days of ignominy, his wishes were eventually accomplished. Charles his youngest son, surnamed the Bald, obtained upon his death most part of France, while Germany fell to the share of Louis, and the rest of the imperial dominions with the title, to the eldest, Lothaire. This partition was the result of a sanguinary, though short, contest; and it gave a fatal blow to the empire of the Franks. For, the treaty of Mersen, in 847, abrogated the sovereignty that had been attached to the eldest brother, and to the imperial name, in former partitions; each held his respective kingdom as an independent right.*

The subsequent partitions made among the children of these brothers are of too rapid succession to be here related. In about forty years, the empire was nearly re-united under Charles the Fat,

CHAP.
I.
PART I.
FRANCE.

840

Partition of
the empire

847

among his
sons, Lo-
thaire, Louis
and Charles
the Bald.

Decline of
the Carlo-
vingian fa-
mily.

Charles the

* Baluzii Capitularia, tom. ii. p. 42. Velly, tom. ii. p. 75. The expressions of this treaty are perhaps equivocal; but the subsequent

conduct of the brothers and their family justifies the construction of Velly, which I have followed.

CHAP.

I.

PART I.

FRANCE.

Fat, emperor

881.

King of

France 885.

Deposed

887.

Dismember-

ment of the

empire.

Kings of

France.

Eudes. 887.

Charles the

Simple. 898.

Robert?

922.

Ralph. 923.

Louis IV.

936.

Lothaire 954

Louis V. 956

Counts of

Paris.

State of the

people.

son of Louis of Germany ; but his short and inglorious reign ended in his deposition. From this time the possession of Italy was contested among her native princes ; Germany fell at first to an illegitimate descendant of Charlemagne, and in a short time was entirely lost by his family ; two kingdoms, afterwards united, were formed by usurpers, out of what was then called Burgundy, and comprized the provinces between the Rhone and Alps, with Franche Comté, and great part of Swisserland.* In France, the Carlovingian kings continued for another century ; but their line was interrupted two or three times by the election or usurpation of a powerful family, the counts of Paris and Orleans, who ended, like the old mayors of the palace, in dispersing the phantoms of royalty they had professed to serve.† Hugh Capet, the representative of this house, upon the death of Louis V. placed himself upon the throne ; thus founding the third and most permanent race of French sovereigns. Before this happened, the descendants of Charlemagne had sunk into insignificance, and retained little more of France than the city of Laon. The rest of the kingdom had been seized by the powerful nobles, who, under the nominal fidelity of the feudal system, maintained its practical independence and rebellious spirit.

These were times of great misery to the people, and the worst, perhaps, that Europe has ever known. Even under Charlemagne, we have abundant proofs of the calamities which the people suffered.

* These kingdoms were denominated Provence and Trans-jurane Burgundy. The latter was very small, comprizing only part of Swisserland ; but its second sovereign, Rodolph II. acquired by treaty almost the whole of the former ; and the two united were called the kingdom of Arles. This lasted from 933 to 1032, when Rodolph III. bequeathed his dominions to the Emperor Conrad II.—*Art de vérifier les Dates*, tom. ii. p. 427—432.

† The family of Capet is generally admitted to possess the most ancient pedigree of any sovereign line in Europe. Its succession through males is unequivocally de-

duced from Robert the Brave, made governor of Anjou in 864, and father of Eudes, king of France, and of Robert, who was chosen by a party in 922, though, as Charles the Simple was still acknowledged in some provinces, it is uncertain whether he ought to be counted in the royal list. It is, moreover, highly probable that Robert the Brave was descended, equally through males, from St. Arnoul, who died in 640, and consequently nearly allied to the Carlovingian family, who derive their pedigree from the same head.—See *Preuves de la Généalogie de Hugues Capet*, in l'*Art de vérifier les Dates*, tom. i. p. 566.

The light which shone around him, was that of a consuming fire. CHAP. I.
The free proprietors, who had once considered themselves as only PART I.
called upon to resist foreign invasion, were harrassed with endless FRANCE.
expeditions, and dragged away to the Baltic sea or the banks of the Drave. Many of them, as we learn from the Capitularies, became ecclesiastics to avoid military conscription.* But far worse must have been their state under the lax government of succeeding times, when the dukes and counts, no longer checked by the vigorous administration of Charlemagne, were at liberty to play the tyrants in their several territories, of which they now became almost the sovereigns. The poorer landholders accordingly were forced to bow their necks to the yoke; and either by compulsion, or through hope of being better protected, submitted their independent patrimonies to the feudal tenure.

But evils still more terrible than these political abuses, were the lot of those nations who had been subject to Charlemagne. *They* indeed may appear to us little better than ferocious barbarians; but they were exposed to the assaults of tribes, in comparison of whom they must be deemed humane and polished. Each frontier of the empire had to dread the attack of an enemy. The coasts of Italy were continually alarmed by the Saracens of Africa, who possessed themselves of Sicily and Sardinia, and became masters of the Mediterranean sea.† Though the Greek dominions in the south of Italy were chiefly exposed to them, they twice insulted and ravaged 846—
849

* Capitularia, A. D. 805. Whoever possessed three mansi of alodial property, was called upon for personal service, or at least to furnish a substitute. Nigellus, author of a poetical Life of Louis I. seems to implicate Charlemagne himself in some of the oppressions of his reign. It was the first care of the former to redress those who had been injured in his father's time.—Recueil des Historiens, tome vi. N.B. I quote by this title the great collection of French historians, charters, and other documents illustrative of the middle ages, more commonly known by the name of its first editor, the Be-

nedictine Bouquet. But as several learned men of that order were successively concerned in this work, not one half of which has yet been published, it seemed better to follow its own title-page.

† These African Saracens belonged to the Aglabites, a dynasty that reigned at Tunis for the whole of the ninth century, after throwing off the yoke of the Abbassite Khalifs. They were overthrown themselves in the next age by the Fatimites. Sicily was first invaded in 827; but the city of Syracuse was only reduced in 878.

CHAP. the territory of Rome, nor was there any security even in the neighbourhood of the maritime Alps; where, early in the tenth century, they settled a piratical colony.*

I.
PART I.

FRANCE.
The Hungarians.

Much more formidable were the foes by whom Germany was assailed. The Slavonians, a widely extended people, whose language is still spoken upon half the surface of Europe, had occupied the countries of Bohemia, Poland, and Pannonia,† on the eastern confines of the empire, and from the time of Charlemagne acknowledged its superiority. But at the end of the ninth century, a Tartarian tribe, the Hungarians, overspreading that country which since has borne their name, and moving forward like a vast wave, brought a dreadful reverse upon Germany. Their numbers were great, their ferocity untamed. They fought with light cavalry and light armour, trusting to their showers of arrows, against which the swords and lances of the European armies could not avail. The memory of Attila was renewed in the devastations of these savages, who, if they were not his compatriots, resembled them both in their countenances and customs. All Italy, all Germany, and the south of France, felt this scourge;‡ till Henry the Fowler, and Otho the Great, drove them back by successive victories within their own limits, where, in a short time, they learned peaceful arts, adopted the religion and followed the policy of Christendom.

934—
954

The Normans.

If any enemies could be more destructive than these Hungarians,

* Muratori, *Annali d'Italia*, ad ann. 906, et alibi. These Saracens of Frassineto, supposed to be between Nice and Monaco, were extirpated by a count of Provence in 972.

† I am sensible of the awkward effect of introducing this name from a more ancient geography, but it saves a circumlocution still more awkward. Austria would convey an imperfect idea, and the Austrian dominions could not be named without a tremendous anachronism.

‡ In 924, they overran Languedoc. Raymond-Pons, count of Toulouse, cut their army to pieces; but they had previously

committed such ravages, that the bishops of that province, writing soon afterwards to pope John X. assert that scarcely any eminent ecclesiastics, out of a great number, were left alive.—*Hist. de Languedoc*, tome ii. p. 60. They penetrated into Guienne, as late as 951. *Flodoardi Chronicon*, in *Recueil des Historiens*, tome viii. In Italy, they inspired such terror, that a mass was composed expressly deprecating this calamity: *Ab Ungarorum nos defendas jaculis!* In 937, they ravaged the country as far as Benevento and Capua. Muratori, *Ann. d'Italia*.

they were the pirates of the north, known commonly by the name of Normans. The love of a predatory life seems to have attracted adventurers of different nations to the Scandinavian seas, from whence they infested, not only by maritime piracy, but continual invasions, the northern coasts both of France and Germany. The causes of their sudden appearance are inexplicable, or at least could only be sought in the ancient traditions of Scandinavia. For, undoubtedly, the coasts of France and England were as little protected from depredations under the Merovingian kings, and those of the Heptarchy, as in subsequent times. Yet only one instance of an attack from this side is recorded, and that before the middle of the sixth century,* till the age of Charlemagne. In 787, the Danes, as we call those northern plunderers, began to infest England, which lay most immediately open to their incursions. Soon afterwards they ravaged the coasts of France. Charlemagne repulsed them by means of his fleets; yet they pillaged a few places during his reign. It is said that, perceiving one day, from a port in the Mediterranean, some Norman vessels which had penetrated into that sea, he shed tears, in anticipation of the miseries which awaited his empire.† In Louis's reign, their depredations upon the coasts were more incessant,‡ but they did not pierce into the inland country, till that of Charles the Bald. The wars between that prince and his family, which exhausted France of her noblest blood, the insubordination of the provincial governors, even the instigation of some of Charles's enemies, laid all open to their inroads. They adopted an uniform plan of warfare both in France and England; sailing up navigable

* Greg. Turon. l. iii. c. 3.

† In the ninth century, the Norman pirates not only ravaged the Balearic isles, and hither coasts of the Mediterranean, but even Greece. De Marca, Marca Hispanica, p. 327.

‡ Nigellus, the poetical biographer of Louis, gives the following description of the Normans:

Nort quoque Francisco dicuntur nomine manni,

Veloces, agiles, armigerique nimis:

Ipse quidem populus latè pernotus habetur,

Lintre dapes quærit, incolitatque mare.

Pulcher adest facie, vultuque statuque decorus.—l. iv.

He goes on to tell us, that they worshipped Neptune—Was it a similarity of name, or of attributes, that deceived him?

CHAP. I. rivers in their vessels of small burthen, and fortifying the islands
 PART I. which they occasionally found, they made these intrenchments at
 FRANCE. once an asylum for their women and children, a repository for their
 plunder, and a place of retreat from superior force. After pillaging
 a town, they retired to these strong holds or to their ships; and it
 was not till 872 that they ventured to keep possession of Angers,
 which, however, they were compelled to evacuate. Sixteen years
 afterwards, they laid siege to Paris, and committed the most ruinous
 devastations on the neighbouring country. As these Normans were
 unchecked by religious awe, the rich monasteries, which had stood
 harmless amidst the havoc of Christian war, were overwhelmed in
 the storm. Perhaps they may have endured some irrecoverable losses
 of ancient learning; but their complaints are of monuments disfigured,
 bones of saints and kings dispersed, treasures carried away. St. Denis
 redeemed its abbot from captivity with six hundred and eighty-five
 pounds of gold. All the chief abbies were stripped about the same
 time, either by the enemy, or for contributions to the public ne-
 cessity. So impoverished was the kingdom, that in 860 Charles the
 Bald had great difficulty in collecting three thousand pounds of
 silver, to subsidize a body of Normans against their countrymen.
 The kings of France, too feeble to prevent or repel these invaders,
 had recourse to the palliative of buying peace at their hands, or rather
 precarious armistices, to which reviving thirst of plunder soon put
 an end. At length, Charles the Simple, in 918, ceded a great pro-
 vince, which they had already partly occupied, partly rendered
 desolate, and which has derived from them the name of Normandy.
 Ignominious as this appears, it proved no impolitic step. Rollo
 the Norman chief, with all his subjects, became Christians and
 Frenchmen; and the kingdom was at once relieved from a terrible
 enemy, and strengthened by a race of hardy colonists.*

* An exceedingly good sketch of these Norman incursions, and of the political situation of France during that period, may be found in two Memoirs by M. Bonamy,

Mem. de l'Acad. des Inscript. tome xv. and xvii. These I have chiefly followed in the text.

The accession of Hugh Capet had not the immediate effect of restoring the royal authority over France. His own very extensive fief was now indeed united to the crown; but a few great vassals occupied the remainder of the kingdom. Six of these obtained, at a subsequent time, the exclusive appellation of peers of France; the count of Flanders, whose fief stretched from the Scheldt to the Somme; the count of Champagne; the duke of Normandy, to whom Britany did homage; the duke of Burgundy, on whom the count of Nivernois seems to have depended; the duke of Aquitaine, whose territory, though less than the ancient kingdom of that name, comprehended Poitou, Limousin, and most of Guienne, with the feudal superiority over the Angoumois, and some other central districts; and, lastly, the count of Toulouse, who possessed Languedoc, with the small countries of Quercy and Rouergue, and the superiority over Auvergne.* Besides these six, the duke of Gascony, not long afterwards united with Aquitaine, the counts of Anjou, Ponthieu, and Vermandois, the viscount of Bourges, the lords of Bourbon and Coucy, with one or two other vassals, held immediately of the last Carlovingian kings.† This was the aristocracy, of which Hugh Capet usurped the direction; for the suffrage of no general assembly gave a sanction to his title. On the death of Louis V. he took advantage of the absence of Charles duke of Lorraine, who, as the deceased king's uncle, was nearest heir, and procured his own consecration at Rheims. At first he was by no means acknowledged in the kingdom; but his contest with Charles proving successful, the chief vassals ultimately gave at least a tacit consent to the usurpation, and permitted the royal name to descend undisputed upon his posterity.‡

* Auvergne changed its feudal superior twice. It had been subject to the duke of Aquitaine till about the middle of the tenth century. The counts of Toulouse then got possession of it; but early in the twelfth century, the counts of Auvergne again did homage to Guienne. It is very difficult to follow the history of these fiefs.

† The *immediacy* of vassals, in times so ancient, is open to much controversy. I have followed the authority of those industrious Benedictines, the editors of *l'Art de vérifier les Dates*.

‡ The south of France not only took no part in Hugh's elevation, but long refused to pay him any obedience, or rather to acknow-

CHAP.
I.
PART I.
FRANCE.
Accession of
Hugh Capet.
987
State of
France at
that time.

CHAP.

I.

PART I.

FRANCE.

Robert 996.
Henry I.
1031.
Philip I.
1060.

But this was almost the sole attribute of sovereignty which the first kings of the third dynasty enjoyed. For a long period before and after the accession of that family, France has, properly speaking, no national history. The character or fortune of those who were called its kings, were little more important to the majority of the nation, than those of foreign princes. Undoubtedly, the degree of influence which they exercised with respect to the vassals of the crown, varied according to their power and their proximity. Over Guienne and Toulouse, the four first Capets had very little authority; nor do they seem to have ever received assistance from them either in civil or national wars.* With provinces nearer to their own domains, such as Normandy and Flanders, they were frequently engaged in alliance or hostility; but each seemed rather to proceed from the policy of independent states, than from the relation of a sovereign towards his subjects.

It should be remembered, that when the fiefs of Paris and Orleans are said to have been reunited by Hugh Capet to the crown, little

ledge his title, for obedience was wholly out of the question. The style of charters ran, instead of the king's name, *Deo regnante, rege expectante*, or, *absente rege terreno*. He forced Guienne to submit about 990. But in Limousin they continued to acknowledge the sons of Charles of Lorraine till 1009. Vaissette, *Hist. de Lang.* t. ii. p. 120. 130. Before this, Toulouse had refused to recognize Eudes and Raoul, two kings of France who were not of the Carolingian family, and even hesitated about Louis IV. and Lothaire, who had an hereditary right. *Idem*.

These proofs of Hugh Capet's usurpation seem not to be materially invalidated by a dissertation in the 50th volume of the Academy of Inscriptions, p. 553. It is not, of course, to be denied, that the northern parts of France acquiesced in his assumption of the royal title, if they did not give an express consent to it.

* I have not found any authority for supposing that the provinces south of the Loire contributed their assistance to the king in war, unless the following passage of Guliel-

mus Pictaviensis be considered as matter of fact, and not rather as a rhetorical flourish. He tells us, that a vast army was collected by Henry I. against the duke of Normandy: Burgundiam, Arverniam, atque Vasconiam properare videres horribiles ferro; immo vires tanti regni quantum in climata quatuor mundi patent cunctas. *Recueil des Historiens*, t. xi. p. 83. But we have the roll of the army which Louis VI. led against the Emperor Henry V. A.D. 1120, in a national war; and it was entirely composed of troops from Champagne, the Isle of France, the Orleannois, and other provinces north of the Loire. Velly, t. iii. p. 62. Yet this was a sort of convocation of the ban: *Rex ut eum tota Francia sequatur, invitat*. Even so late as the reign of Philip Augustus, in a list of the knights bannerets of France, though those of Britany, Flanders, Champagne, and Burgundy, besides the royal domains, are enumerated, no mention is made of the provinces beyond the Loire. *Du Chesne, Script. Rerum Gallicarum*, t. v. p. 262.

more is understood than the feudal superiority over the vassals of these provinces. As the kingdom of Charlemagne's posterity was split into a number of great fiefs, so each of these contained many barons, possessing exclusive immunities within their own territories; waging war at their pleasure, administering justice to their military tenants, and other subjects, and free from all controul beyond the conditions of the feudal compact.* At the accession of Louis VI. in 1108, the cities of Paris, Orleans, and Bourges, with the immediately adjacent districts, formed the most considerable portion of the royal domain. A number of petty barons, with their fortified castles, intercepted the communication between these, and waged war against the king almost under the walls of his capital. It cost Louis a great deal of trouble to reduce the lords of Montlehery, and other places within a few miles of Paris. Under this prince, however, who had more activity than his predecessors, the royal authority considerably revived. From his reign we may date the systematic rivalry of the French and English monarchies. Hostilities had several times occurred between Philip I. and the two Williams; but the wars that began under Louis VI. lasted, with no long interruption, for three centuries and a half, and form indeed the most leading feature of French history during the middle ages.† Of all the royal vassals, the dukes of Normandy were the proudest and most powerful. Though they had submitted to do homage, they could not forget that they came in originally by force, and that in real strength, they were fully equal to their sovereign. Nor had the conquest of England any tendency to diminish their pretensions.‡

Louis VII. ascended the throne with better prospects than his

CHAP.
I.
PART I.
FRANCE.

Louis VI.
1108

Louis VII.
1137

* In a subsequent chapter, I shall illustrate, at much greater length, the circumstances of the French monarchy with respect to its feudal vassals. It would be inconvenient to anticipate at present a disquisition which is rather of a legal than narrative character.

† Velly, t. iii. p. 40.

‡ The Norman historians maintain, that

their dukes did not owe any service to the king of France, but only simple homage, or, as it was called, *per paragium*. *Recueil des Historiens*, t. xi. pref. p. 161. They certainly acted upon this principle; and the manner in which they first came into the country is not very consistent with dependence.

CHAP. I. PART I. FRANCE. father. He had married Eleanor, heiress of the great duchy of Guienne. But this union, which promised an immense accession of strength to the crown, was rendered unhappy by the levities of that princess. Repudiated by Louis, who felt rather as a husband than a king, Eleanor immediately married Henry II. of England; who already inheriting Normandy from his mother, and Anjou from his father, became possessed of more than one half of France, and an overmatch for Louis, even if the great vassals of the crown had been always ready to maintain its supremacy. One might venture perhaps to conjecture that the sceptre of France would eventually have passed from the Capets to the Plantagenets, if the vexatious quarrel with Becket at one time, and the successive rebellions fomented by Louis at a later period, had not embarrassed the great talents and ambitious spirit of Henry.

Philip Augustus.

1180

But the scene quite changed when Philip Augustus, son of Louis VII. came upon the stage. No prince comparable to him in systematic ambition and military enterprize, had reigned in France since Charlemagne. From his reign the French monarchy dates the recovery of its lustre. He wrested from the count of Flanders the Vermandois, (that part of Picardy which borders on the Isle of France and Champagne,*) and subsequently, the county of Artois. But the most important conquests of Philip were obtained against the kings of England. Even Richard I., with all his prowess, lost ground in struggling against an adversary, not less active, and more politic than himself. But when John not only took possession of his brother's dominions, but confirmed his usurpation by the murder, as was very probably surmised, of the heir, Philip, artfully taking advantage of the general indignation, summoned him as his vassal to the court of his peers. John demanded a safe-conduct. Willingly, said Philip; let him come unmolested. And return? inquired the

Conquest of Normandy.

1203

* The original counts of Vermandois were descended from Bernard king of Italy, grandson of Charlemagne: but their fief passed by the donation of Isabel, the last countess, to

her husband the earl of Flanders, after her death in 1183. The principal towns of the Vermandois are St. Quentin and Peronne. Art de vérifier les Dates, t. ii. p. 700.

English envoy. If the judgment of his peers permit him, replied the king. By all the saints of France, he exclaimed, when further pressed, he shall not return unless acquitted. The bishop of Ely still remonstrated, that the duke of Normandy could not come without the king of England; nor would the barons of that country permit their sovereign to run the risk of death or imprisonment. What of that, my lord bishop? cried Philip. It is well known that my vassal the duke of Normandy acquired England by violence. But, if a subject obtains any accession of dignity, shall his paramount lord therefore lose his rights?*

CHAP.
I.
PART I.
FRANCE.

It may be doubted, whether in thus citing John before his court, the king of France did not stretch his feudal sovereignty beyond its acknowledged limits. Arthur was certainly no immediate vassal of the crown for Britany; and though he had done homage to Philip for Anjou and Maine, yet a subsequent treaty had abrogated his investiture, and confirmed his uncle in the possession of those provinces.† But the vigour of Philip, and the meanness of his adversary, cast a shade over all that might be novel or irregular in these proceedings. John, not appearing at his summons, was declared guilty of felony, and his fiefs confiscated. The execution of this sentence was not entrusted to a dilatory arm. Philip poured his troops into Normandy, and took town after town, while the king of England, infatuated by his own wickedness and cowardice, made hardly an attempt at defence. In two years Normandy, Maine, and Anjou were irrecoverably lost. Poitou and Guienne resisted longer; but the conquest of the first was completed by Louis VIII. successor of Philip, and the subjection of the second seemed drawing near, when the arms of Louis were diverted to different, but scarcely less advantageous objects.

The country of Languedoc, subject to the counts of Toulouse, had been unconnected, beyond any other part of France, with the

Affairs of
Languedoc.

* Matt. Paris, p. 238. edit. 1684.

† The illegality of Philip's proceedings

is well argued by Mably, Observations sur l'Histoire de France, l. iii. c. 6.

CHAP. kings of the house of Capet. Louis VII. having married his sister
 I. to the reigning count, and travelled himself through the country,
 PART I. began to exercise some degree of authority, chiefly in confirming
 FRANCE. the rights of ecclesiastical bodies, who were vain perhaps of this
 additional sanction to the privileges which they already possessed.*
 But the remoteness of their situation, with a difference in language
 and legal usages, still kept the people of this province apart from
 those of the north of France.

About the middle of the twelfth century, certain religious
 opinions, which it is not easy, nor, for our present purpose,
 material to define, but, upon every supposition, exceedingly adverse
 to those of the church,† began to spread over Languedoc. Those
 who imbibed them have borne the name of Albigeois, though they
 were in no degree peculiar to the district of Albi. In despite of
 much preaching and some persecution, these errors made a con-
 tinual progress; till Innocent III., in 1198, dispatched commissa-
 ries, the seed of the inquisition, with ample powers both to investi-
 gate and to chastise. Raymond VI., count of Toulouse, whether
 inclined towards the innovators, as was then the theme of reproach,
 or, as is more probable, disgusted with the insolent interference of
 the pope and his missionaries, provoked them to a sentence of
 excommunication. Though this was taken off, he was still sus-
 pected; and upon the assassination of one of the inquisitors, in
 1208 which Raymond had no concern, Innocent published a crusade
 both against the count and his subjects, calling upon the king of

* According to the Benedictine histo-
 rians, Vich and Vaissette, there is no trace
 of any act of sovereignty exercised by the
 kings of France in Languedoc from 955,
 when Lothaire confirmed a charter of his
 predecessor Raoul, in favour of the bishop
 of Puy, till the reign of Louis VII. (Hist.
 de Languedoc, tome ii. p. 88.) They have
 published however an instrument of Louis
 VI. in favour of the same church, confirm-
 ing those of former princes. (Appendix, p.
 473). Neither the count of Toulouse, nor
 any lord of the province, were present in a

very numerous national assembly, at the
 coronation of Philip I. (Id. p. 200.) I do
 not recollect to have ever met with the name
 of the count of Toulouse as a subscribing
 witness to the charters of the first Capetian
 kings in the Recueil des Historiens, where
 many are published; though that of the
 duke of Guienne sometimes occurs.

† For the real tenets of the Languedocian sectaries, I refer to the last chapter
 of the present work, where the subject will
 be taken up again.

France, and the nobility of that kingdom, to take up the cross, with all the indulgences usually held out as allurements to religious warfare. Though Philip would not interfere, a prodigious number of knights undertook this enterprize, led partly by ecclesiastics, and partly by some of the first barons in France. It was prosecuted with every atrocious barbarity which superstition, the mother of crimes, could inspire. Languedoc, a country, for that age, flourishing and civilized, was laid waste by these desolators; her cities burned; her inhabitants swept away by fire and the sword. And this was to punish a fanaticism ten thousand times more innocent than their own, and errors, which, according to the worst imputations, left the laws of humanity and the peace of social life unimpaired.*

The crusaders were commanded by Simon de Montfort, a man, like Cromwell, whose intrepidity, hypocrisy and ambition, marked him for the hero of a holy war. The energy of such a mind, at the head of an army of enthusiastic warriors, may well account for successes which then appeared miraculous. But Montfort was cut off before he could realize his ultimate object, an independent principality; and Raymond was able to bequeath the inheritance of his ancestors to his son. Rome, however, was not yet appeased; upon some new pretence, she raised up a still more formidable enemy against the younger Raymond. Louis VIII. suffered himself to be diverted from the conquest of Guienne, to take the cross against the supposed patron of heresy. After a short and successful war, Louis dying prematurely, left the crown of France to a son only twelve years old. But the count of Toulouse was still pursued, till, hopeless of safety in so unequal a struggle, he concluded a treaty upon very harsh terms. By this he ceded the greater part of Lan-
guedoc; and giving his daughter in marriage to Alfonso, brother of Louis IX., confirmed to them, and to the king in failure of their

Crusade
against the
Albigens.

1222

1229

* The Albigensian war commenced with the storming of Beziers, and a massacre, wherein 15,000 persons, or, according to some narrations, 60,000, were put to the sword. Not a living soul escaped, as witnesses assure us. It was here that a Cistercian monk, who

led on the crusaders, answered the inquiry, how the Catholics were to be distinguished from heretics: *Kill them all! God will know his own.* Besides Vaissette, see Sismondi, *Littérature du Midi*, t. i. p. 201.

CHAP. descendants, the reversion of the rest, in exclusion of any other
 I. children whom he might have. Thus fell the ancient house of
 PART I. Toulouse, through one of those strange combinations of fortune,
 FRANCE. which thwart the natural course of human prosperity, and disap-
 point the plans of wise policy, and beneficent government.*

Louis IX. The rapid progress of royal power under Philip Augustus and
 1226 his son, had scarcely given the great vassals time to reflect upon
 the change which it produced in their situation. The crown, against
 which some might singly have measured their forces, was now an
 equipoise to their united weight. And such an union was hard to
 be accomplished among men not always very sagacious in policy,
 and divided by separate interests and animosities. They were not,
 however, insensible to the crisis of their feudal liberties; and the
 minority of Louis IX., guided only by his mother, the regent
 Blanche of Castile, seemed to offer a favourable opportunity for re-
 covering their former situation. Some of the most considerable
 barons, the counts of Britany, Champagne, and la Marche, had,
 during the time of Louis VIII., shewn an unwillingness to push the
 count of Toulouse too far, if they did not even keep up with him
 a secret understanding. They now broke out into open rebellion;
 but the address of Blanche detached some from the league, and
 her firmness subdued the rest. For the first fifteen years of Louis's
 reign the struggle was frequently renewed; till repeated humiliations
 convinced the refractory, that the throne was no longer to be shaken.
 A prince so feeble as Henry III. was unable to afford them that aid
 from England, which, if his grandfather or son had then reigned,
 might probably have lengthened these civil wars.

His cha-
 racter.
 Its excel-
 lences,

But Louis IX. had methods of preserving his ascendancy very
 different from military prowess. That excellent prince was perhaps
 the most eminent pattern of unswerving probity, and Christian
 strictness of conscience, that ever held the sceptre in any country.

* The best account of this crusade against
 the Albigeois is to be found in the third
 volume of Vaissette's History of Langue-
 doc; the Benedictine spirit of mildness and

veracity tolerably counterbalancing the preju-
 dices of orthodoxy. Velly, Hist. de France,
 t. iii. has abridged this work.

There is a peculiar beauty in the reign of St. Louis, because it shews the inestimable benefit which a virtuous king may confer on his people, without possessing any distinguished genius. For nearly half a century that he governed France, there is not the smallest want of moderation or disinterestedness in his actions; and yet he raised the influence of the monarchy to a much higher point than the most ambitious of his predecessors. To the surprize of his own and later times, he restored great part of his conquests to Henry III., whom he might naturally hope to have expelled from France. 1259 It would indeed have been a tedious work to conquer Guienne, which was full of strong places, and the subjugation of such a province might have alarmed the other vassals of his crown. But it is the privilege only of virtuous minds to perceive what wisdom resides in moderate counsels; no sagacity ever taught a selfish and ambitious sovereign to forego the sweetness of immediate power. An ordinary king, in the circumstances of the French monarchy, would have fomented, or, at least, have rejoiced in the dissensions which broke out among the principal vassals; Louis constantly employed himself to reconcile them. In this too his benevolence had all the effects of far-sighted policy. It had been the practice of his three predecessors to interpose their mediation in behalf of the less powerful classes; the clergy, the inferior nobility, and the inhabitants of chartered towns. Thus the supremacy of the crown became a familiar idea; but the perfect integrity of St. Louis wore away all distrust, and accustomed even the most jealous feudatories to look upon him as their judge and legislator. And as the royal authority was hitherto shewn only in its most amiable prerogatives, the dispensation of favour, and the redress of wrong, few were watchful enough to remark the transition of the French constitution from a feudal league to an absolute monarchy.

It was perhaps fortunate for the display of St. Louis's virtues, that the throne had already been strengthened by the less innocent exertions of Philip Augustus and Louis VIII. A century earlier, his mild and scrupulous character, unsustained by great actual power,

CHAP. I.
PART I.
FRANCE. might not have inspired sufficient awe. But the crown was now grown so formidable, and Louis was so eminent for his firmness and bravery, qualities, without which every other virtue would have been ineffectual, that no one thought it safe to run wantonly into rebellion, while his disinterested administration gave no one a pretext for it. Hence the latter part of his reign was altogether tranquil, and employed in watching over the public peace, and the security of travellers; administering justice personally, or by the best counsellors; and compiling that code of feudal customs, called the Establishments of St. Louis, which is the first monument of legislation, after the accession of the house of Capet. Not satisfied with the justice of his own conduct, Louis aimed at that act of virtue, which is rarely practised by private men, and had perhaps no example among kings,—restitution. Commissaries were appointed to inquire what possessions had been unjustly annexed to the royal domain during the two last reigns. These were restored to the proprietors, or where length of time had made it difficult to ascertain the claimant, their value was distributed among the poor.*

and defects. It has been hinted already that all this excellence of heart in Louis IX. was not attended with that strength of understanding, which is necessary, we must allow, to complete the usefulness of a sovereign. During his minority, Blanche of Castile, his mother, had filled the office of regent with great courage and firmness. But after he grew up to manhood, her influence seems to have passed the limit which gratitude and piety would have assigned to it; and, as her temper was not very meek or popular, exposed the king to some degree of contempt. He submitted even to be restrained from the society of his wife Margaret, daughter of Raymond count of Provence, a princess of great virtue and conjugal affection. Joinville

* Velly, tom. v. p. 150. This historian has very properly dwelt for almost a volume on St. Louis's internal administration; it is one of the most valuable parts of his work.

Joinville is a real witness, on whom, when we listen, it is impossible not to rely.—Collection des Mémoires relatifs à l'Histoire de France, tom. ii. p. 140—156.

relates a curious story, characteristic of Blanche's arbitrary conduct, and sufficiently derogatory to Louis.*

But the principal weakness of this king, which almost effaced all the good consequences of his virtues, was superstition. It would be idle to sneer at those habits of abstemiousness and mortification, which were part of the religion of his age, and, at the worst, were only injurious to his own comfort. But he had other prejudices, which, though they may be forgiven, must never be defended. No one was ever more impressed than St. Louis, with a belief in the duty of exterminating all enemies to his own faith. With these, he thought, no layman ought to risk himself in the perilous ways of reasoning, but to make answer with his sword as stoutly as a strong arm and a fiery zeal could carry *that* argument.† Though, fortunately for his fame, the persecution against the Albigeois, which had been the disgrace of his father's short reign, was at an end before he reached manhood, he suffered a hypocritical monk to establish a tribunal at Paris for the suppression of heresy, where many innocent persons suffered death.

But no events in Louis's life were more memorable than his two crusades, which lead us to look back on the nature and circumstances of that most singular phænomenon in European history. Though the crusades involved all the western nations of Europe, without belonging peculiarly to any one, yet as France was more distinguished than the rest in most of those enterprizes, I shall introduce the subject as a sort of digression from the main course of French history.

* Collection des Mémoires, tom. ii. p. 241.

† Aussy vous dis je, me dist le roy, que nul, si n'est grant clerc, et theologien parfait, ne doit disputer aux Juifs; mais doit l'omme lay, quant il oit mesdire de la foy chrétienne, defendre la chose, non pas seulement des paroles, mais à bonne espée tranchant, et en frapper les médisans et mescreans a travers le corps, tant qu'elle y pourra entrer. Joinville, in Collection des Mé-

moires, tom. i. p. 23. This passage, which shews a tolerable degree of bigotry, did not require to be strained farther still by Mosheim, vol. iii. p. 273, (edit. 1803). I may observe by the way, that this writer, who sees nothing in Louis IX. except his intolerance, ought not to have charged him with issuing an edict in favour of the inquisition, in 1229, when he had not assumed the government.

CHAP.

I.

PART I.

FRANCE.

The Cru-
sades.

Even before the violation of Palestine by the Saracen arms, it had been a prevailing custom among the Christians of Europe to visit those scenes rendered interesting by religion, partly through delight in the effects of local association, partly in obedience to the prejudices or commands of superstition. These pilgrimages became more frequent in later times, in spite, perhaps in consequence, of the danger and hardships which attended them. For a while the Mohammedan possessors of Jerusalem permitted or even encouraged a devotion which they found lucrative; but this was interrupted, whenever the ferocious insolence with which they regarded all infidels, got the better of their rapacity. During the eleventh century, when from increasing superstition, and some particular fancies, the pilgrims were more numerous than ever, a change took place in the government of Palestine, which was over-run by the Turkish hordes from the north. These barbarians treated the visitors of Jerusalem with still greater contumely, mingling with their Mohammedan bigotry, a consciousness of strength and courage, and a scorn of the Christians, whom they knew only by the debased natives of Greece and Syria, or by these humble and defenceless palmers. When such insults became known throughout Europe, they excited a keen sensation of resentment among nations equally courageous and devout; which, though wanting as yet any definite means of satisfying itself, was ripe for whatever favourable conjuncture might arise.

Twenty years before the first crusade, Gregory VII. had projected the scheme of embodying Europe in arms against Asia; a scheme worthy of his daring mind, and which, perhaps, was never forgotten by Urban II. who in every thing loved to imitate his great predecessor.* This design of Gregory was founded upon the supplication of the Greek Emperor Michael, which was renewed by Alexius

* Gregory addressed, in 1074, a sort of encyclic letter to all who would defend the Christian faith, enforcing upon them the duty of taking up arms against the Saracens who had almost come up to the walls of Con-

stantinople. No mention of Palestine is made in this letter. Labbé, Concilia, t. x. p. 44. St. Marc, Abrégé Chron. de l'Hist. de l'Italie, t. iii. p. 614.

Comnenus to Urban with increased importunity. The Turks had now taken Nice, and threatened, from the opposite shore, the very walls of Constantinople. Every one knows whose hand held a torch to that inflammable mass of enthusiasm that pervaded Europe; the hermit of Picardy, who, roused by witnessed wrongs, and imagined visions, journeyed from land to land, the apostle of an holy war. The preaching of Peter was powerfully seconded by Urban. In the councils of Piacenza and of Clermont, the deliverance of Jerusalem 1095 was eloquently recommended and exultingly undertaken. It is the will of God! was the tumultuous cry that broke from the heart and lips of the assembly at Clermont, and these words afford at once the most obvious and most certain explanation of the leading principle of the crusades. Later writers, incapable of sympathizing with the blind fervour of zeal, or anxious to find a pretext for its effects somewhat more congenial to the spirit of our times, have sought political reasons for that which resulted only from predominant affections. No suggestion of these will, I believe, be found in contemporary historians. To rescue the Greek empire from its imminent peril, and thus to secure Christendom from enemies who professed towards it eternal hostility, might have been a legitimate and magnanimous ground of interference; but it operated scarcely, or not at all, upon those who took the cross. Indeed it argues strange ignorance of the eleventh century to ascribe such refinements of later times even to the princes of that age. The Turks were no doubt repelled from the neighbourhood of Constantinople by the crusaders; but this was a collateral effect of their enterprize. Nor had they any disposition to serve the interest of the Greeks, whom they soon came to hate, and not entirely without provocation, with almost as much animosity as the Moslems themselves.

Every means were used to excite an epidemical frenzy, the remission of penance, the dispensation from those practices of self-denial which superstition imposed or suspended at pleasure, the absolution of all sins, and the assurance of eternal felicity. None doubted that such as perished in the war received immediately the reward of

CHAP. martyrdom.* False miracles and fanatical prophecies, which were
 I. never so frequent, wrought up the enthusiasm to a still higher pitch.
 PART I. And these devotional feelings, which are usually thwarted and
 FRANCE. balanced by other passions, fell in with every motive that could influence the men of that time; with curiosity, restlessness, the love of licence, thirst for war, emulation, ambition. Of the princes who assumed the cross, some probably from the beginning speculated upon making independent establishments in the East. In later periods, the temporal benefits of undertaking a crusade undoubtedly blended themselves with less selfish considerations. Men resorted to Palestine, as in modern times they have done to the colonies, in order to redeem their fame, or repair their fortune. Thus Gui de Lusignan, after flying from France for murder, was ultimately raised to the throne of Jerusalem. To the more vulgar class were held out inducements, which, though absorbed in the over-ruling fanaticism of the first crusade, might be exceedingly efficacious, when it began rather to flag. During the time that a crusader bore the cross, he was free from suit for his debts, and the interest of them was entirely abolished; he was exempted, in some instances at least, from taxes, and placed under the protection of the church, so that he could not be impleaded in any civil court, except in criminal charges, or questions relating to land.†

None of the sovereigns of Europe took a part in the first crusade; but many of their chief vassals, great part of the inferior nobility, and a countless multitude of the common people. The priests left their parishes, and the monks their cells; and though the peasantry were then in general bound to the soil, we find no check given to their emigration for this cause. Numbers of women and children swelled the crowd; it appeared a sort of sacrilege to repel any one

* Nam qui pro Christi nomine decertantes, in acie fidelium et Christianâ militiâ dicuntur occumbere, non solum infamiæ, verum et peccaminum et delictorum omnimodam credimus abolitionem promereri. Will. Tyr. l. x. c. 20.

† Otho of Frisingen, c. 35, has inserted a bull of Eugenius III. in 1146, containing some of these privileges. Others are granted by Philip Augustus in 1214. Ordonnances des Rois de France, tom. i. See also Du Cange, voc. Crucis Privilegia.

from

from a work which was considered as the manifest design of Providence. But if it were lawful to interpret the will of Providence by events, few undertakings have been more branded by its disapprobation than the crusades. So many crimes and so much misery have seldom been accumulated in so short a space, as in the three years of the first expedition. We should be warranted by contemporary writers in stating the loss of the Christians alone during this period at nearly a million : but, at the least computation, it must have exceeded half that number.* To engage in the crusade, and to perish in it, were almost synonymous. Few of those myriads who were mustered in the plains of Nice returned to gladden their friends in Europe, with the story of their triumph at Jerusalem. Besieging alternately and besieged in Antioch, they drained to the lees the cup of misery : three hundred thousand sat down before that place, next year there remained but a sixth part to pursue the enterprize. But their losses were least in the field of battle ; the intrinsic superiority of European prowess was constantly displayed ; the angel of Asia, to apply the bold language of our poet, high and unmatchable, where her rival was not, became a fear ; and the Christian lances bore all before them in their shock from Nice to Antioch, Edessa and Jerusalem. It was here, where their triumph 1099 was consummated, that it was stained with the most atrocious massacre ; not limited to the hour of resistance, but renewed deliberately even after that famous penitential procession to the Holy Sepulchre, which might have calmed their ferocious dispositions, if through the misguided enthusiasm of the enterprize, it had not been rather calculated to excite them.†

* William of Tyre says, that at the review before Nice, there were found 600,000 of both sexes, exclusive of 100,000 cavalry armed in mail, l. ii. c. 23. But Fulk of Chartres reckons the same number, besides women, children, and priests. An immense slaughter had previously been made in Hungary of the rabble under Gualtier Sans-Avoir.

† The work of Mailly, entitled L'Esprit des

Croisades, is deserving of considerable praise for its diligence and impartiality. It carries the history, however, no farther than the first expedition. Gibbon's two chapters on the Crusades, though not without inaccuracies, are a brilliant portion of his great work. The original writers are chiefly collected in two folio volumes, entitled *Gesta Dei per Francos*. Hanover. 1611.

CHAP.

I.

PART I.

FRANCE.

Latin con-
quests in
Syria.

Second cru-
sade.

1147

The conquests obtained at such a price by the first crusade were chiefly comprised in the maritime parts of Syria. Except the state of Edessa beyond the Euphrates,* which, in its best days, extended over great part of Mesopotamia, the Latin possessions never reached more than a few leagues from the sea. Within the barrier of Mount Libanus, their arms might be feared, but their power was never established; and the prophet was still invoked in the mosques of Aleppo and Damascus. The principality of Antioch to the north, the kingdom of Jerusalem, with its feudal dependencies of Tripoli and Tiberias to the south, were assigned, the one to Boemond, a brother of Robert Guiscard, count of Apulia, the other to Godfrey of Boulogne,† whose extraordinary merit had justly raised him to a degree of influence with the chief crusaders, that has been sometimes confounded with a legitimate authority.‡ In the course of a few years, Tyre, Ascalon, and the other cities upon the sea-coast, were subjected by the successors of Godfrey on the throne of Jerusalem. But as their enemies had been stunned, not killed by the western storm, the Latins were constantly molested by the Mohammedans of Egypt and Syria. They were exposed, as the out-post of Christendom, with no respite, and few resources. A second crusade, in which the emperor Conrad III. and Louis VII. of France were engaged,

* Edessa was a little Christian principality, surrounded by, and tributary to, the Turks. The inhabitants invited Baldwin, on his progress in the first crusade, and he made no great scruple of supplanting the reigning prince, who indeed is represented as a tyrant and usurper. *Esprit des Croisades*, t. iv. p. 62. *De Guignes, Hist. des Huns*, tom. ii. p. 135—162.

† Godfrey never took the title of King of Jerusalem, not chusing, he said, to wear a crown of gold in that city, where his Saviour had been crowned with thorns. Baldwin, Godfrey's brother, who succeeded him within two years, entitles himself, *Rex Hierusalem, Latinorum primus*. *Will. Tyr.* l. ii. c. 12.

‡ The heroes of the crusade are just like those of romance. Godfrey is not only the wisest, but the strongest man in the army. Perhaps Tasso has lost some part of this *physical* superiority for the sake of contrasting him with the imaginary Rinaldo. He cleaves a Turk in twain from the shoulder to the haunch. A noble Arab, after the taking of Jerusalem, requests him to try his sword upon a camel, when Godfrey with ease cuts off the head. The Arab, suspecting there might be something peculiar in the blade, desires him to do the same with *his* sword; and the hero obliges him by demolishing a second camel. *Will. Tyr.* l. ix. c. 22.

each with seventy thousand cavalry, made scarce any diversion; and that vast army wasted away in the passage of Natolia.*

The decline of the Christian establishments in the East is ascribed by William of Tyre to the extreme viciousness of their manners, to the adoption of European arms by the orientals, and to the union of the Mohammedan principalities under a single chief.† Without denying the operation of these causes, and especially the last, it is easy to perceive one more radical than all the three, the inadequacy of their means of self-defence. The kingdom of Jerusalem was guarded only, exclusive of European volunteers, by the feudal service of eight hundred and sixty-six knights, attended each by four archers on horseback, by a militia of five thousand and seventy-five burghers, and by a conscription, in great exigencies, of the remaining population.‡ William of Tyre mentions an army of one thousand three hundred horse and fifteen thousand foot, as the greatest which had ever been collected, and predicts the utmost success from it, if wisely conducted.§ This was a little before the irruption of Saladin. In the last fatal battle, Lusignan seems to have had somewhat a larger force.|| Nothing can more

I.
PART I.
FRANCE.
Decline of
the Latin
principal-
ties in the
East.

* Vertot puts the destruction in the second crusade at two hundred thousand men. Hist. de Malthe, p. 129: and from William of Tyre's language, there seems no reason to consider this an exaggeration. L. xvi. c. 19.

† L. xxi. c. 7. John of Vitry also mentions the change of weapons by the Saracens in imitation of the Latins, using the lance and coat of mail instead of bows and arrows. c. 92. But, according to a more ancient writer, part of Soliman's (the Kilidge Arslan of de Guignes) army in the first crusade was in armour, loriceis et galeis et clypeis aureis valde armati. Albertus Aquensis, l. ii. c. 27. I may add to this a testimony of another kind, not less decisive. In the abbey of St. Denis, there were (dum fuit Ilium) ten pictures in stained glass, representing sieges and battles in the first crusade. These were made by order of Suger, the minister of Louis VI. and consequently in the early part of the twelfth century. In many of them the

Turks are painted in coats of mail; sometimes even in a plated cuirass. In others, they are quite unarmed, and in flowing robes. Montfaucon, Monumens de la Monarchie Française, t. i. pl. 50.

‡ Gibbon, c. 98, note 125. Jerusalem itself was very thinly inhabited. For all the heathens, says William of Tyre, had perished in the massacre when the city was taken; or, if any escaped, they were not allowed to return; no heathen being thought fit to dwell in the holy city. Baldwin invited some Arabian Christians to settle in it.

§ L. xxii. c. 27.

|| A primo introitu Latinorum in terram sanctam, says John de Vitry, nostri tot milites in uno proelio congregare nequiverunt. Erant enim mille ducenti milites loricati; peditum autem cum armis, arcubus et balistis circiter viginti millia infaustæ expeditioni interfuisse dicuntur. Gesta Dei per Francos, p. 1118.

CHAP. strikingly evince the ascendancy of Europe, than the resistance of
 I. these Frankish acquisitions in Syria during nearly two hundred
 PART I. years. Several of their victories over the Moslems were obtained
 FRANCE. in spite of such disparity of numbers, that they may be compared
 with whatever is most illustrious in history or romance.* These
 perhaps were less due to the descendants of the first crusaders,
 settled in the Holy Land,† than to those volunteers from Europe,
 whom martial ardour and religious zeal impelled to the service. It
 was the penance commonly imposed upon men of rank for the
 most heinous crimes, to serve a number of years under the banner
 of the cross. Thus a perpetual supply of warriors was poured in
 from Europe, and in this sense, the crusades may be said to have
 lasted without intermission during the whole period of the Latin
 settlements. Of these defenders, the most renowned were the mili-
 tary orders of the Knights of the Temple and of the Hospital of St.
 John,‡ which were instituted, the one in 1124, the other in 1118, for
 the sole purpose of protecting the Holy Land. The Teutonic
 order, established in 1190, when the kingdom of Jerusalem was
 falling, soon diverted its schemes of holy warfare to a very different
 quarter of the world. Large estates, as well in Palestine, as through-
 out Europe, enriched the two former institutions; but the pride,
 rapaciousness, and misconduct of both, especially of the Templars,
 seem to have balanced the advantages derived from their valour.§
 At length the famous Saladin, usurping the throne of a feeble dy-
 nasty which had reigned in Egypt, broke in upon the Christians of
 1187

* A brief summary of these victories is given by John of Vitry, c. 93.

† Many of these were of a mongrel extraction, descended from a Frank parent on one side, and a Syrian on the other. These were called Poulains, Pullani; and were looked upon as a mean degenerate race. Du Cange; Gloss. v. Pullani; and Observations sur Joinville, in Collection des Mémoires relatifs à l'Histoire de France, t. ii. p. 190.

‡ The St. John of Jerusalem was neither the Evangelist, nor yet the Baptist, but a certain Cypriot, surnamed the Charitable, who had been patriarch of Alexandria.

§ See a curious instance of the misconduct and insolence of the Templars, in William of Tyre, l. xx. c. 32. The Templars possessed nine thousand manors, and the knights of St. John nineteen thousand, in Europe. The latter were almost as much reproached as the Templars for their pride and avarice. L. xviii. c. 6.

Jerusalem; the king and the kingdom fell into his hands; nothing remained but a few strong towns upon the sea-coast.

These misfortunes roused once more the princes of Europe, and the third crusade was undertaken by her three greatest sovereigns, in personal estimation as well as dignity; by the emperor Frederic Barbarossa, Philip Augustus of France, and our own Richard Cœur de Lion. But this, like the preceding enterprize, failed of permanent effect; and those feats of romantic prowess, which made the name of Richard so famous both in Europe and Asia,* proved only the total inefficacy of all exertions in an attempt so radically absurd. Palestine was never the scene of another crusade. One great armament was diverted to the siege of Constantinople; and another wasted in fruitless attempts upon Egypt. The emperor Frederic II. afterwards procured the restoration of Jerusalem by the Saracens; but the Christian princes of Syria were unable to defend it, and their possessions were gradually reduced to the maritime towns. Acre, the last of these, was finally taken by storm in 1291; and its ruin closes the history of the Latin dominion in Syria, which Europe had already ceased to protect.

The two last crusades were undertaken by St. Louis. In the first he was attended by 2,800 knights and 50,000 ordinary troops.† He landed at Damietta, in Egypt, for that country was now deemed the key of the Holy Land, and easily made himself master of the city. But advancing up the country, he found natural impediments as well as enemies in his way; the Turks assailed him with Greek fire, an instrument of warfare almost as surprizing and terrible as gunpowder; he lost his brother, the Count of Artois, with many knights, at Massoura, near Cairo; and began too late a retreat

* When a Turk's horse started at a bush, he would chide him, Joinville says, with, *Cuides tu qu' y soit le roy Richard?* Women kept their children quiet with the threat of bringing Richard to them.

† The Arabian writers give him 9,500 knights, and 130,000 common soldiers. But

I greatly prefer the authority of Joinville, who has twice mentioned the number of knights in the text. On Gibbon's authority, I put the main body at 50,000; but, if Joinville has stated this, I have missed the passage. Their vessels amounted to 1800.

CHAP.
I.

PART I.

FRANCE.

Third crusade.

1189

1204

1218

Crusades of
St. Louis.

1248

CHAP. I. PART I. FRANCE. 1270
towards Damietta. Such calamities now fell upon this devoted army, as have scarce ever been surpassed; hunger and want of every kind, aggravated by an unsparing pestilence. At length the king was made prisoner, and very few of the army escaped the Turkish scymetar in battle or in captivity. Four hundred thousand livres were paid as a ransom for Louis. He returned to France, and passed near twenty years in the exercise of those virtues which are his best title to canonization. But the fatal illusions of superstition were still always at his heart; nor did it fail to be painfully observed by his subjects, that he still kept the cross upon his garment. His last expedition was originally designed for Jerusalem. But he had received some intimation, that the king of Tunis was desirous of embracing Christianity. That these intentions might be carried into effect, he sailed out of his way to the coast of Africa, and laid siege to that city. A fever here put an end to his life, sacrificed to that ruling passion which never would have forsaken him. But he had survived the spirit of the crusades; the disastrous expedition to Egypt had cured his subjects, though not himself, of their folly;* his son, after making terms with Tunis, returned to France; the Christians were suffered to lose what they still retained in the Holy Land; and though many princes, in subsequent ages, talked loudly of renewing the war, the promise, if it were ever sincere, was never accomplished.

* The refusal of Joinville to accompany the king in this second crusade is very memorable, and gives us an insight into the bad effects of both expeditions. Le Roy de France, et le Roy de Navarre me pressoient fort de me croiser, et entreprendre le chemin du pelerinage de la croix. Mais je leur respondi, que tandis que j'avoie esté oultremer au service de Dieu, que les gens et officiers du Roy de France avoient trop grevé et foullé mes subjets, tant qu'ils en estoient apovris; tellement que jamés il ne seroit, que eulx et moy ne nous en sortissons. Et veoie clerement, si je me mectoie au pelerinage de la croix, que ce seroit la totale destruction de mesdiz povres subjets. De-

puis ouy-je dire a plusieurs, que ceux qui luy conseillerent l'entreprinse de la croix, firent un trez grant mal, et pecherent mortellement. Car tandis qu'il fust au royaume de France, tout son royaume vivoit en paix, et regnoit justice. Et incontinent qu'il en fust ors, tout commença à decliner, et à empirer.—T. ii. p. 158.

In the *Fabliaux* of Le Grand d'Aussy, we have a neat poem by Rutubœuf, a writer of St. Louis's age, in a dialogue between a crusader and a non-crusader, wherein, though he gives the last word to the former, it is plain that he designed the opposite scale to preponderate.—T. ii. p. 163.

Louis IX. had increased the royal domain by the annexation of several counties and other less important fiefs; but soon after the accession of Philip III. (surnamed the Bold) it received a far more considerable augmentation. Alfonso, the late king's brother, had been invested with the county of Poitou, ceded by Henry III. with part of Auvergne and of Saintonge; and held also, as has been said before, the remains of the great fief of Toulouse, in right of his wife Jane, heiress of Raymond VII. Upon his death, and that of his countess, which happened about the same time, the king entered into possession of all these territories. This acquisition brought the sovereigns of France into contact with new neighbours; the kings of Aragon and the powers of Italy. The first great and lasting foreign war which they carried on, was that of Philip III. and IV. against the former kingdom, excited by the insurrection of Sicily. Though effecting no change in the boundaries of their dominions, this war may be deemed a sort of epoch in the history of France and Spain, as well as in that of Italy, to which it more peculiarly belongs.

CHAP.
I.
PART I.
FRANCE
Philip III.
1270

1271

1285

There still remained five great and ancient fiefs of the French crown; Champagne, Guienne, Flanders, Burgundy, and Britany. But Philip IV., usually called the Fair, married the heiress of the first, a little before his father's death; and although he governed that county in her name, without pretending to reunite it to the royal domain, it was at least, in a political sense, no longer a part of the feudal body. With some of his other vassals, Philip used more violent methods. A parallel might be drawn between this prince and Philip Augustus. But while in ambition, violence of temper, and unprincipled rapacity, as well as in the success of their attempts to establish an absolute authority, they may be considered as nearly equal, we may remark this difference, that Philip the Fair, who was destitute of military talents, gained those ends by dissimulation, which his predecessor had reached by force.

Philip the
Fair.
1285

Aggrandize-
ment of the
French mo-
narchy
under his
reign.

The duchy of Guienne, though somewhat abridged of its original extent, was still by far the most considerable of the French fiefs; even

CHAP. I. independently of its connexion with England.* Philip, by dint of
 PART I. perfidy, and by the egregious incapacity of Edmund, brother of
 FRANCE. Edward I., contrived to obtain, and to keep for several years, the
 1292 possession of this great province. A quarrel among some French
 and English sailors having provoked retaliation, till a sort of piratical
 war commenced between the two countries, Edward, as duke of Gui-
 enne, was summoned into the king's court, to answer for the tres-
 1292 passes of his subjects. Upon this, he dispatched his brother to settle
 terms of reconciliation, with fuller powers than should have been in-
 trusted to so credulous a negociator. Philip so outwitted this prince,
 through a fictitious treaty, as to procure from him the surrender of
 all the fortresses in Guienne. He then threw off the mask, and after
 again summoning Edward to appear, pronounced the confiscation
 of his fief.† This business is the greatest blemish in the political
 character of Edward. But his eagerness about the acquisition of
 Scotland rendered him less sensible to the danger of a possession in
 many respects more valuable; and the spirit of resistance among the
 English nobility, which his arbitrary measures had provoked, broke
 out very opportunely for Philip, to thwart every effort for the reco-
 1303 very of Guienne by arms. But after repeated suspensions of hostili-
 ties, a treaty was finally concluded, by which Philip restored the
 province, on the agreement for a marriage between his daughter Isa-
 bel and the heir of England.

To this restitution he was chiefly induced by the ill success that
 had attended his arms in Flanders, another of the great fiefs which

* Philip was highly offended that instru-
 ments made in Guienne should be dated by
 the year of Edward's reign, and not of his
 own. This almost sole badge of sovereignty
 had been preserved by the kings of France
 during all the feudal ages. A struggle took
 place about it, which is recorded in a curious
 letter from John de Greilli to Edward. The
 French court at last consented to let dates
 be thus expressed: Actum fuit, regnante
 P. rege Franciæ, E. rege Angliæ tenente

ducatum Aquitaniæ. Several precedents
 were shewn by the English, where the
 counts of Toulouse had used the form,
 Regnante A. comite Tolosæ. Rymer, t. ii.
 p. 1083.

† In the view I have taken of this transac-
 tion, I have been guided by several instru-
 ments in Rymer, which leave no doubt on
 my mind. Velly of course represents the
 matter more favourably for Philip.

this ambitious monarch had endeavoured to confiscate. We have not perhaps as clear evidence of the original injustice of his proceedings towards the count of Flanders, as in the case of Guienne; but he certainly twice detained his person, once after drawing him on some pretext to his court, and again, in violation of the faith pledged by his generals. The Flemings made, however, so vigorous a resistance that Philip was unable to reduce that small country: and in one famous battle at Courtray, they discomfited a powerful army with that utter loss and ignominy, to which the undisciplined impetuosity of the French nobles was pre-eminently exposed.*

Two other acquisitions of Philip the Fair deserve notice; that of the counties of Angouleme and la Marche, upon a sentence of forfeiture (and, as it seems, a very harsh one) passed against the reigning count; and that of the city of Lyons, and its adjacent territory, which had not even feudally been subject to the crown of France, for more than three hundred years. Lyons was the dowry of Matilda, daughter of Louis IV. on her marriage with Conrad, king of Burgundy, and was bequeathed with the rest of that kingdom by Rodolph, in 1032, to the empire. Frederic Barbarossa conferred upon the archbishop of Lyons all regalian rights over the city, with the title of Imperial Vicar. France seems to have had no concern with it, till St. Louis was called in as a mediator in disputes between the chapter and the city, during a vacancy of the see, and took the exercise of jurisdiction upon himself for the time. Philip III. having been chosen arbitrator in similar circumstances, insisted, before he would restore the jurisdiction, upon an oath of fealty from the new archbishop. This oath, which could be demanded, it seems, by no right but that of force, continued to be taken, till, in 1310, an archbishop resisting what he thought an usurpation, the city was besieged by Philip IV. and, the inhabitants being not unwilling to submit, was finally united to the French crown.†

* The Flemings took at Courtray 4,000 pair of gilt spurs, which were only worn by knights. These Velly, happily enough, com-

pares to Hannibal's three bushels of gold rings at Cannæ.

† Velly, t. vii. p. 404. For a more pre-

CHAP. Philip the Fair left three sons, who successively reigned in France ;
 I. Louis, surnamed Hutin, Philip the Long, and Charles the Fair ;
 PART I. with a daughter, Isabel, married to Edward II. of England. Louis,
 FRANCE. the eldest, survived his father little more than a year, leaving one
 Louis X. daughter, and his queen pregnant. The circumstances that ensued,
 1314. require to be accurately stated. Louis had possessed, in right of his
 Question of Salic Law. mother, the kingdom of Navarre, with the counties of Champagne
 Philip V. and Brie. Upon his death, Philip, his next brother, assumed the
 1315. regency both of France and Navarre ; and not long afterwards,
 entered into a treaty with Eudes duke of Burgundy, uncle of the
 princess Jane, Louis's daughter, by which her eventual rights to the
 succession were to be regulated. It was agreed that in case the queen
 should be delivered of a daughter, these two princesses, or the survivor
 of them, should take their grandmother's inheritance, Navarre
 and Champagne, on releasing all claim to the throne of France.
 But this was not to take place till their age of consent, when, if
 they should refuse to make such renunciation, their claim was to
 remain, and *right to be done to them therein* ; but, in return, the
 release made by Philip of Navarre and Champagne was to be null.
 In the mean time, he was *to hold the government* of France, Navarre,
 and Champagne, receiving homage of vassals in all these countries
 as *governor* ; saving the right of a male heir to the late king, in the
 event of whose birth, the treaty was not to take effect.*

This convention was made on the 17th of July, 1316 ; and on the
 15th of November, the queen brought into the world a son, John I.
 (as some call him) who died in four days. The conditional treaty
 was now become absolute ; in spirit, at least, if any cavil might be
 raised about the expression ; and Philip was, by his own agreement,
 precluded from taking any other title, than that of regent or
 governor, until the princess Jane should attain an age to concur in
 or disclaim the provisional contract of her uncle. Instead of this,

cise account of the political dependence of
 Lyons and its district, see l'Art de Vérifier
 les Dates, t. ii. p. 469.

* Hist. de Charles le Mauvais, par Sé-
 couisse, vol. ii. p. 2.

however, he procured himself to be consecrated at Rheims; though on account of the avowed opposition of the duke of Burgundy, and even of his own brother Charles, it was thought prudent to shut the gates during the ceremony, and to dispose guards throughout the town. Upon his return to Paris, an assembly composed of prelates, barons, and burgesses of that city, was convened, who acknowledged him as their lawful sovereign, and, if we may believe an historian, expressly declared, that a woman was incapable of succeeding to the crown of France.* The duke of Burgundy, however, made a show of supporting his niece's interests, till tempted by the prospect of a marriage with the daughter of Philip, he shamefully betrayed her cause, and gave up in her name, for an inconsiderable pension, not only her disputed claim to the whole monarchy, but her unquestionable right to Navarre and Champagne.† I have been rather minute in stating these details, because the transaction is misrepresented by every historian, not excepting those who have written since the publication of the documents which illustrate it.‡

In this contest, every way memorable, but especially on account of that which sprung out of it, the exclusion of females from the throne of France was first publicly questioned. The French writers almost unanimously concur in asserting, that such an exclusion was built upon a fundamental maxim of their government. No written law, nor even, so far as I know, the direct testimony of any ancient writer, has been brought forward to confirm this position. For as to the text of the Salic law, which was frequently quoted, and has indeed given a name to this exclusion of females, it can only by a

* Tunc etiam declaratum fuit, quod in regno Franciæ mulier non succedit. Contin. Gul. Nangis, in Spicilegio d'Achery, t. iii. This monk, without talents, and probably without private information, is the sole contemporary historian of this important period. He describes the assembly which confirmed Philip's possession of the crown; quamplures procures et regni nobiles ac magnates

unà cum plerisque prælati et burgensibus Parisiensis civitatis.

† Hist. de Charles le Mauvais, t. ii. p. 6.

‡ Velly, who gives several proofs of disingenuousness in this part of history, mutilates the treaty of the 17th of July, 1316, in order to conceal Philip the Long's breach of faith towards his niece.

CHAP. I. doubtful and refined analogy be considered as bearing any relation to the succession of the crown. It is certain, nevertheless, that, from the time of Clovis, no woman had ever reigned in France; and although not an instance of a sole heiress had occurred before, yet some of the Merovingian kings left daughters, who might, if not rendered incapable by their sex, have shared with their brothers in partitions then commonly made.* But on the other hand, these times were gone quite out of memory, and France had much in the analogy of her existing usages, to reconcile her to a female reign. The crown resembled a great fief; and the great fiefs were universally capable of descending to women. Even at the consecration of Philip himself, Maud, countess of Artois, held the crown over his head among the other peers.† And it was scarcely beyond the recollection of persons living, that Blanche had been legitimate regent of France during the minority of St. Louis.

For these reasons, and much more from the provisional treaty concluded between Philip and the duke of Burgundy, it may be fairly inferred, that the Salic law, as it was called, was not so fixed a principle at that time, as has been contended. But however this may be, it received at the accession of Philip the Long, a sanction which subsequent events more thoroughly confirmed. Philip himself leaving only three daughters, his brother Charles mounted the throne; and upon his death, the rule was so unquestionably established, that his only daughter was excluded by the count of Valois, grandson of Philip the Bold. This prince first took the

Charles IV.
1322
Philip of
Valois.
1328

* The treaty of Andely, in 587, will be found to afford a very strong presumption, that females were at that time excluded from reigning in France. Greg. Turon. l. ix.

† The continuator of Nangis says indeed of this; *de quo aliqui indignati fuerunt*. But these were probably the partisans of her nephew Robert, who had been excluded by a judicial sentence of Philip IV., on the ground that the right of representation did not take place in Artois; a decision considered by many as unjust. Robert subse-

quently renewed his appeal to the court of Philip of Valois; but, unhappily for himself, yielded to the temptation of forging documents in support of a claim which seems to have been at least plausible without such aid. This unwise dishonesty, which is not without parallel in more private causes, not only ruined his pretensions to the county of Artois, but produced a sentence of forfeiture, and even of capital punishment against himself. See a pretty good account of Robert's process in Velly, t. viii. p. 262.

regency, the queen dowager being pregnant, and upon her giving birth to a daughter, was crowned king. No competitor or opponent appeared in France; but one more formidable than any whom France could have produced, was awaiting the occasion to prosecute his imagined right, with all the resources of valour and genius, and to carry desolation over that great kingdom, with as little scruple as if he were preferring a suit before a civil tribunal.

CHAP.
I.
PART I.
FRANCE.

From the moment of Charles IV.'s death, Edward III. of England buoyed himself up with a notion of his title to the crown of France, in right of his mother Isabel, sister to the three last kings. We can have no hesitation in condemning the injustice of this pretension. Whether the Salic law were or were not valid, no advantage could be gained by Edward. Even if we could forget the express or tacit decision of all France, there stood in his way Jane, the daughter of Louis X. three of Philip the Long, and one of Charles the Fair. Aware of this, Edward set up a distinction, that, although females were excluded from succession, the same rule did not apply to their male issue; and thus, though his mother Isabel could not herself become queen of France, she might transmit a title to him. But this was contrary to the commonest rules of inheritance: and if it could have been regarded at all, Jane had a son, afterwards the famous king of Navarre, who stood one degree nearer to the crown than Edward.

Claim of
Edward III.

It is asserted in some French authorities, that Edward preferred a claim to the regency, immediately after the decease of Charles the Fair, and that the States General, or at least the peers of France, adjudged that dignity to Philip de Valois. Whether this be true or not, it is clear that he entertained projects of recovering his right as early, though his youth and the embarrassed circumstances of his government, threw insuperable obstacles in the way of their execution.* He did liege homage therefore to Philip for Guienne, and

* Letters of Edward III. addressed to certain nobles and towns in the south of France, dated March 28, 1328, four days before the birth of Charles IV.'s posthumous daughter, intimate this resolution. Rymer, vol. iv. p. 544 et seq. But an instrument, dated at

CHAP. I. for several years, while the affairs of Scotland engrossed his atten-
 PART I. tion, gave no sign of meditating a more magnificent enterprize. As
 FRANCE. he advanced in manhood, and felt the consciousness of his strength,
 his early designs grew mature, and produced a series of the most
 important and interesting revolutions in the fortunes of France.
 These will form the subject of the ensuing pages.

Northampton, on the 16th of May, is decisive: This is a procuration to the bishops of Worcester and Litchfield, to demand, and take possession of the kingdom of France, "in our name, which kingdom has devolved, and appertains to us, as to the right heir." p. 354. To this mission Archbishop Stratford refers, in his vindication of himself from Edward's accusation of treason in 1340; and informs us, that the two bishops actually proceeded to France, though without mentioning any further particulars. *Novit enim qui nihil ignorat, quod cum quæstio de regno Franciæ post mortem regis Caroli, fratris serenissimæ matris vestræ, in parlamento tunc apud Northampton celebrato, tractata discussaque fuisset; quodque idem regnum Franciæ ad vos hæreditario jure extiterat legitimè devolutum; et super hoc fuit ordinatum, quod duo episcopi, Wigorniensis tunc, nunc autem Wintoniensis, ac Coventriensis et Lichfeldensis in Franciam dirigerent gressus suos, nomineque vestro regnum Franciæ vindicarent, et prædicti Philippi de Valesio coronationem pro viribus impedirent; qui juxta ordinationem prædictam legationem iis injunctam tunc assumentes, gressus suos versus Franciam direxerunt; quæ quidem legatio maximam guerræ præsentis materiam ministravit.* Wilkins. Concilia, t. i. p. 664.

There is no evidence in Rymer's *Fœdera* to corroborate Edward's supposed claim to the regency of France upon the death of Charles IV.; and it is certainly suspicious, that no appointment of ambassadors or procurators for this purpose should appear in so complete a collection of documents. The French historians generally assert this, upon the authority of the continuator of William of Nangis, a nearly contemporary, but not always well informed, writer. It is curious to compare the four chief English historians, Rapin affirms both the claim to the regency, on Charles IV.'s death, and that to the kingdom, after the birth of his daughter. Carte, the most exact historian we have, mentions the latter, and is silent as to the former. Hume passes over both, and intimates, that Edward did not take any steps in support of his pretensions in 1328. Henry gives the supposed trial of Edward's claim to the regency before the States General at great length, and makes no allusion to the other, so indisputably authenticated in Rymer. It is, I think, most probable, that the two bishops never made the formal demand of the throne as they were directed by their instructions. Stratford's expressions seem to imply that they did not.

PART II.

War of Edward III. in France—Causes of his Success—Civil Disturbances of France—Peace of Bretigni—its Interpretation considered—Charles V.—Renewal of the War—Charles VI.—his Minority and Insanity—Civil Dissensions of the Parties of Orleans and Burgundy—Assassination of both these Princes—Intrigues of their Parties with England under Henry IV.—Henry V. invades France—Treaty of Troyes—State of France in the first years of Charles VII.—Progress and subsequent Decline of the English Arms—their Expulsion from France—change in the Political Constitution—Louis XI.—his Character—Leagues formed against him—Charles duke of Burgundy—his Prosperity and Fall—Louis obtains possession of Burgundy—his Death—Charles VIII.—Acquisition of Britany.

No war had broken out in Europe, since the fall of the Roman Empire, so memorable as that of Edward III. and his successors against France, whether we consider its duration, its object, or the magnitude and variety of its events. It was a struggle of one hundred and twenty years, broken only once by a regular pacification, where the most ancient and extensive dominion in the civilized world was the prize, twice lost and twice recovered in the conflict, while individual courage was wrought up to that high pitch, which it can seldom display, since the regularity of modern tactics has chastised its enthusiasm, and levelled its distinctions. There can be no occasion to dwell upon the events of this war, which are familiar to almost every reader; it is rather my aim to develope and arrange those circumstances, which, when rightly understood, give the clue to its various changes of fortune.

France was, even in the fourteenth century, a kingdom of such extent and compactness of figure, such population and resources, and filled with so spirited a nobility, that the very idea of subjugating it by a foreign force must have seemed the most extravagant dream of am-

CHAP.

I.

PART II.

FRANCE.

War of Edward III. in France.

Causes of his success.

CHAP. I. PART II. FRANCE. bition.* Yet in the course of about twenty years of war, this mighty nation was reduced to the lowest state of exhaustion, and dismembered of considerable provinces by an ignominious peace. What was the combination of political causes, which brought about so strange a revolution, and, though not realizing Edward's hopes to their extent, redeemed them from the imputation of rashness in the judgement of his own and succeeding ages?

Character of
Edward III.
and his son.

The first advantage which Edward III. possessed in this contest, was derived from the splendour of his personal character, and from the still more eminent virtues of his son. Besides prudence and military skill, these great princes were endowed with qualities peculiarly fitted for the times in which they lived. Chivalry was then in its zenith; and in all the virtues which adorned the knightly character, in courtesy, munificence, gallantry, in all delicate and magnanimous feelings, none were so conspicuous as Edward III. and the Black Prince. As later princes have boasted of being the best gentlemen, they might claim to be the proudest knights in Europe; a character not quite dissimilar, yet of more high pretension. Their court was, as it were, the sun of that system, which embraced the valour and nobility of the Christian world; and the respect which was felt for their excellencies, while it drew many to their side, mitigated in all the rancour and ferociousness of hostility. This war was like a great tournament, where the combatants fought indeed *à outrance*, but with all the courtesy and fair play of such an entertainment, and almost as much for the honour of their ladies. In the school of the Edwards were formed men not inferior in any nobleness of disposition to their masters, Manni, and the Captal de Buch, Felton, Knollys

* The pope (Benedict XII.) wrote a strong letter to Edward, (March 1340,) dissuading him from taking the title and arms of France, and pointing out the impossibility of his ever succeeding. I have no doubt but that this was the common opinion. But the Avignon popes were very subservient to France. Clement VI. as well as his predecessor, Benedict XII. threatened Edward with spiritual arms. Rymer, t. v. p. 88 and 465. It required Edward's spirit and steadiness to despise these menaces. But the time, when they were terrible to princes, was rather passed by; and the Holy See never ventured to provoke the king, who treated the church, throughout his reign, with admirable firmness and temper.

and Calverley, Chandos and Lancaster. On the French side, especially after du Guesclin came on the stage, these had rivals almost equally deserving of renown. If we could forget, what never should be forgotten, the wretchedness and devastation that fell upon a great kingdom, too dear a price for the display of any heroism, we might count these English wars in France among the brightest periods in history.

CHAP.
I.
PART II.
FRANCE.

Philip of Valois, and John his son, shewed but poorly in comparison with their illustrious enemies. Yet they had both considerable virtues; they were brave,* just, liberal, and the latter, in particular, of unshaken fidelity to his word. But neither was beloved by his subjects; the misgovernment and extortion of their predecessors during half a century had alienated the public mind, and rendered their own taxes and debasement of the coin intolerable. Philip was made by misfortune, John by nature, suspicious and austere; and although their most violent acts seem never to have wanted absolute justice, yet they were so ill conducted, and of so arbitrary a complexion, that they greatly impaired the reputation, as well as interests, of these monarchs. In the execution of Clisson under Philip, in that of the Connétable d'Eu under John, and still more in that of Harcourt, even in the imprisonment of the king of Navarre, though every one of these may have been guilty of treasons, there were circumstances enough to exasperate the disaffected, and to strengthen the party of so politic a competitor as Edward.

Character of
Philip VI.
and John.

Next to the personal qualities of the king of England, his resources in this war must be taken into the account. It was after long hesitation that he assumed the title and arms of France, from which,

Resources
of the king
of England.

* The bravery of Philip is not questioned. But a French historian, in order, I suppose, to enhance this quality, has presumed to violate truth in an extraordinary manner. The challenge sent by Edward, offering to decide his claim to the kingdom by single combat, is well known. Certainly it conveys no imputation on the king of France to have declined this unfair proposal. But Velly

has represented him as accepting it, on condition that Edward would stake the crown of England against that of France; an interpolation which may be truly called audacious, since not a word of this is in Philip's letter, preserved in Rymer, which the historian had before his eyes, and actually quotes upon the occasion. Hist. de France, t. viii. p. 382.

CHAP. I. PART II. FRANCE. unless upon the best terms, he could not recede without loss of honour.* In the mean time he strengthened himself by alliances with the emperor, with the cities of Flanders, and with most of the princes in the Netherlands and on the Rhine. Yet I do not know that he profited much by these conventions, since he met with no success, till the scene of the war was changed from the Flemish frontier to Normandy and Poitou. The troops of Hainault alone were constantly distinguished in his service.

But his intrinsic strength was at home. England had been growing in riches since the wise government of his grandfather, Edward I. and through the market opened for her wool with the manufacturing towns of Flanders. She was tranquil within; and her northern enemy, the Scotch, had been defeated and quelled. The parliament, after some slight precautions against a very probable effect of Edward's conquest of France, the reduction of their own island into a province, entered, as warmly as improvidently, into his quarrel. The people made it their own, and grew so intoxicated with the victories of this war, that for some centuries the injustice and folly of the enterprize do not seem to have struck the gravest of our countrymen.

Excellence
of the Eng-
lish armies.

There is, indeed, ample room for national exultation at the names

* The first instrument in which Edward disallows the title of Philip, is his convention with the emperor Lewis of Bavaria, wherein he calls him, *nunc pro rege Francorum se gerentem*. The date of this is August 26, 1337, yet on the 28th of the same month, another instrument gives him the title of king; and the same occurs in subsequent instances. At length we have an instrument of procuration to the duke of Brabant, October 7, 1337, empowering him to take possession of the crown of France in the name of Edward: *attendentes inclitum regnum Franciæ ad nos fore jure successionis legitime devolutum*. Another of the same date appoints the said duke his vicar-general and lieutenant of France. The king assumed in this commission the title, *Rex Franciæ et*

Angliæ; in other instruments he calls himself, *Rex Angliæ et Franciæ*. It was necessary to obviate the jealousy of the English, who did not, in that age, admit the precedence of France. Accordingly, Edward had two great seals, on which the two kingdoms were named in a different order. But, in the royal arms, those of France were always in the first quarter, as they continued to be until the accession of the house of Brunswic.

Probably Edward III. would not have entered into the war, merely on account of his claim to the crown. He had disputes with Philip about Guienne; and that prince had, rather unjustifiably, abetted Robert Bruce in Scotland. I am not inclined to lay any material stress upon the instigation of Robert of Artois.

of Crecy, Poitiers and Azincourt. So great was the disparity of numbers upon those famous days, that we cannot, with the French historians, attribute the discomfiture of their hosts merely to mistaken tactics and too impetuous valour. They yielded rather to that intrepid steadiness in danger, which had already become the characteristic of our English soldiers, and which, during four centuries, has ensured their superiority, whenever ignorance or infatuation have not led them into the field. But these victories, and the qualities that secured them, must chiefly be ascribed to the freedom of our constitution, and to the superior condition of the people. Not the nobility of England, not the feudal tenants won the battles of Crecy and Poitiers; for these were fully matched in the ranks of France: but the yeomen, who drew the bow with strong and steady arms, accustomed to its use in their native fields, and rendered fearless by personal competence and civil freedom. It is well known, that each of the three great victories was due to our archers, who were chiefly of the middle class, and attached, according to the system of that age, to the knights and squires who fought in heavy armour with the lance. Even at Poitiers, of which our country seems to have the least right to boast, since the greater part of the Black Prince's small army was composed of Gascons, the merit of the English bowmen is strongly attested by Froissart.*

Yet the glorious termination to which Edward was enabled, at least for a time, to bring the contest, was rather the work of fortune, than of valour and prudence. Until the battle of Poitiers, he had made no progress towards the conquest of France. That country was too vast, and his army too small, for such a revolution. The victory of Crecy gave him nothing but Calais; a post of considerable importance in war and peace, but rather adapted to annoy than to subjugate the kingdom. But at Poitiers he obtained the greatest

Condition of
France after
the battle of
Poitiers.

1356

* Au vray dire, les archers d'Angleterre faisoient à leurs gens grant avantage. Car ils tiroient tant espessement, que les François ne scavoient de quel costé entendre,

qu'ils ne fussent consuyvis de trayt; et s'avancoient tousjours ces Anglois, et petit à petit enqueroyent terre. Part I. c. 162.

CHAP. of prizes, by taking prisoner the king of France. Not only the
 I. love of freedom tempted that prince to ransom himself by the
 PART II. utmost sacrifices, but his captivity left France defenceless, and
 FRANCE. seemed to annihilate the monarchy itself. The government was
 already odious ; a spirit was awakened in the people, which might
 seem hardly to belong to the fourteenth century ; and the convulsions
 of our own time are sometimes strongly paralleled by those which
 succeeded the battle of Poitiers. Already the States General had
 established a fundamental principle, that no resolution could be
 passed as the opinion of the whole, unless each of the three orders
 concurred in its adoption.* The right of levying and of regulating
 the collection of taxes was recognized. But that assembly which
 met at Paris immediately after the battle, went far greater lengths in
 the reform and controul of government. From the time of Philip
 the Fair, the abuses natural to arbitrary power had harrassed the
 people. There now seemed an opportunity of redress ; and how-
 ever seditious, or even treasonable, may have been the motives of
 those who guided this assembly of the States, especially the famous
 Marcel, it is clear that many of their reformatations tended to liberty
 and the public good.† But the tumultuous scenes which passed in the
 capital, sometimes heightened into civil war, necessarily distracted
 men from the common defence against Edward. These tumults
 were excited, and the distraction increased, by Charles, king of
 Navarre, surnamed the Bad, to whom the French writers have, not
 perhaps unjustly, attributed a character of unmixed and inveterate
 malignity. He was grandson of Louis Hutin, by his daughter
 Jane, and, if Edward's pretence of claiming through females
 could be admitted, was a nearer heir to the crown ; the conscious-
 ness of which seems to have suggested itself to his depraved mind
 as an excuse for his treacheries, though he could entertain very

* Ordonnances des Rois de France, t. ii.

† I must refer the reader onward to the next chapter, for more information on this subject. This separation is inconvenient,

but it arose indispensably out of my arrangement, and prevented greater inconveniences.

little prospect of asserting the claim against either contending party. CHAP. I.
 John had bestowed his daughter in marriage on the king of Navarre; PART II.
 but he very soon gave a proof of his character, by procuring the FRANCE.
 assassination of the king's favourite, Charles de la Cerda. An
 irreconcilable enmity was the natural result of this crime. Charles
 became aware that he had offended beyond the possibility of for-
 giveness, and that no letters of pardon, nor pretended reconciliation,
 could secure him from the king's resentment. Thus, impelled by
 guilt into deeper guilt, he entered into alliances with Edward, and
 fomented the seditious spirit of Paris. Eloquent and insinuating,
 he was the favourite of the people, whose grievances he affected to
 pity, and with whose leaders he intrigued. As his paternal inhe-
 ritage, he possessed the county of Evreux in Normandy. The
 proximity of this to Paris created a formidable diversion in favour
 of Edward III. and connected the English garrisons of the North
 with those of Poitou and Guienne.

There is no affliction which did not fall upon France during this
 miserable period. A foreign enemy was in the heart of the king-
 dom, the king a prisoner, the capital in sedition, a treacherous
 prince of the blood in arms against the sovereign authority.
 Famine, the sure and terrible companion of war, for several years
 desolated the country. In 1348, a pestilence the most extensive
 and unsparing of which we have any memorial, visited France as
 well as the rest of Europe, and consummated the work of hunger
 and the sword.* The companies of adventure, mercenary troops
 in the service of John or Edward, finding no immediate occupation
 after the truce of 1357, scattered themselves over the country, in

* A full account of the ravages made by
 this memorable plague may be found in
 Matteo Villani, the second of that family
 who wrote the history of Florence. His
 brother and predecessor, John Villani, was
 himself a victim to it. The disease began
 in the Levant about 1346; from whence
 Italian traders brought it to Sicily, Pisa,
 and Genoa. In 1348, it passed the Alps

and spread over France and Spain; in the
 next year, it reached Britain, and in 1350
 laid waste Germany and other northern
 states; lasting generally about five months
 in each country. At Florence, more than
 three out of five died. Muratori, Script.
 Rerum Italicarum, t. xiv. p. 12. The time
 of Boccaccio's Decamerone, as is well
 known, is laid during this pestilence.

CHAP. I. PART II. FRANCE. search of pillage. No force existed sufficiently powerful to check these robbers in their career. Undismayed by superstition, they compelled the pope to redeem himself in Avignon by the payment of forty thousand crowns.* France was the passive victim of their licence, even after the pacification concluded with England, till some were diverted into Italy, and others led by du Guesclin to the war of Castile. Impatient of this wretchedness, and stung by the insolence and luxury of their lords, the peasantry of several districts broke out into a dreadful insurrection. This was called the 1358 Jacquerie, from the cant phrase Jacques bon homme, applied to men of that class; and was marked by all the circumstances of horror incident to the rising of an exasperated and unenlightened populace.†

* Froissart, p. 187. This troop of banditti was commanded by Arnaud de Cervole, surnamed l'Archiprêtre, from a benefice which, although a layman, he possessed, according to the irregularity of those ages. See a memoir on the life of Arnaud de Cervole, in the twenty-fifth volume of the Academy of Inscriptions.

† The second continuator of Nangis, a monk of no great abilities, but entitled to notice as our most contemporary historian, charges the nobility with spending the money raised upon the people by oppressive taxes, in dice 'et alios indecentes jocos.' D'Achery, Spicilegium, t. iii. p. 114. (folio edition.) All the miseries that followed the battle of Poitiers he ascribes to bad government and neglect of the commonweal; but especially to the pride and luxury of the nobles. I am aware that this writer is biassed in favour of the king of Navarre; but he was an eye-witness of the people's misery, and perhaps a less exceptionable authority than Froissart, whose love of pageantry and habits of feasting in the castles of the great, seem to have produced some insensibility towards the sufferings of the lower classes. It is a painful circumstance, which Froissart and the continuator of Nangis attest, that the citizens of Calais, more interesting than the common heroes of history, were unrewarded, and begged their bread in misery throughout France. Villaret contradicts this, on the

authority of an ordinance which he has seen in their favour. But that was not a time when ordinances were very sure of execution. Vill. t. ix. p. 470. I must add, that the celebrated story of the six citizens of Calais, which has of late been called in question, receives strong confirmation from John Villani, who died very soon afterwards. l. xii. c. 96. Froissart of course wrought up the circumstances after his manner. In all the colouring of his history, he is as great a master as Livy; and as little observant of particular truth. M. de Bréquigny, almost the latest of those excellent antiquaries whose memoirs so much illustrate the French Academy of Inscriptions, has discussed the history of Calais, and particularly this remarkable portion of it. Mém. de l'Académie des Inscriptions, t. i.

Petrarch has drawn a lamentable picture of the state of France in 1360, when he paid a visit to Paris. I could not believe, he says, that this was the same kingdom which I had once seen so rich and flourishing. Nothing presented itself to my eyes but a fearful solitude, an extreme poverty, lands uncultivated, houses in ruins. Even the neighbourhood of Paris manifested every where marks of destruction and conflagration. The streets are deserted; the roads overgrown with weeds: the whole is a vast solitude. Mém. de Pétrarque, t. iii. p. 541.

Subdued by those misfortunes, though Edward had made but slight progress towards the conquest of the country, the regent of France, afterwards Charles V., submitted to the peace of Bretigni. By this treaty, not to mention less important articles, all Guienne, Gascony, Poitou, Saintonge, the Limousin, and the Angoumois, as well as Calais, and the county of Ponthieu, were ceded in full sovereignty to Edward; a price abundantly compensating his renunciation of the title of France, which was the sole concession stipulated in return. Every care seems to have been taken to make the cession of these provinces complete. The first six articles of the treaty expressly surrender them to the king of England. By the seventh, John and his son engage to convey within a year from the ensuing Michaelmas all their rights over them, and especially those of sovereignty and feudal appeal. The same words are repeated still more emphatically in the eleventh, and some other articles. The twelfth stipulates the exchange of mutual renunciations; by John, of all right over the ceded countries; by Edward, of his claim to the throne of France. At Calais, the treaty of Bretigni was renewed by John, who, as a prisoner, had been no party to the former compact, with the omission only of the twelfth article, respecting the exchange of renunciations. But that it was not intended to wave them by this omission, is abundantly manifest by instruments of both the kings, in which reference is made to their future interchange at Bruges, on the feast of St. Andrew, 1361. And, until that time should arrive, Edward promises to lay aside the title and arms of France, (an engagement which he strictly kept,*) and John to act in no respect as king or suzerain over the ceded provinces. Finally, on November 15, 1361, two commissioners are appointed by Edward to receive the renunciations of the king of France at Bruges on the ensuing feast of St. Andrew,† and to do whatever might be mutually

* Edward gives John the title of king of France, in an instrument bearing date at Calais, October 22, 1360. Rymer, t. vi. p. 217. The treaty was signed October 24, Id. p. 219.

† Rym. t. vi. p. 339.

CHAP. required by virtue of the treaty. These, however, seem to have
 I. been withheld, and the twelfth article of the treaty of Bretigni was
 PART II. never expressly completed. By mutual instruments, executed at
 FRANCE. Calais, October 24, it had been declared, that the sovereignty of the
 ceded provinces, as well as Edward's right to the crown of France,
 should remain as before, although suspended as to its exercise,
 until the exchange of renunciations, notwithstanding any words of
 present conveyance or release in the treaties of Bretigni and Calais.
 And another pair of letters patent, dated October 26, contains the
 form of renunciations, which, it is mutually declared, should have
 effect by virtue of the present letters, in case one party should be
 ready to exchange such renunciations at the time and place
 appointed, and the other should make default therein. These
 instruments executed at Calais are so prolix, and so studiously
 enveloped, as it seems, in the obscurity of technical language, that
 it is difficult to extract their precise intention. It appears, never-
 theless, that whichever party was prepared to perform what was
 required of him at Bruges on November 30, 1361, the other then
 and there making default, would acquire not only what our lawyers
 might call an equitable title, but an actually vested right, by virtue
 of the provision in the letters patent of October 26, 1360. The
 appointment above mentioned of Edward's commissioners on No-
 vember 15, 1361, seems to throw upon the French the burthen of
 proving, that John sent his envoys with equally full powers to the
 place of meeting, and that the non-interchange of renunciations was
 owing to the English government. But, though an historian sixty
 years later, (Juvenal des Ursins,) asserts that the French commis-
 sioners attended at Bruges, and that those of Edward made default,
 it is certainly rendered improbable, by the actual appointment of
 commissioners made by the king of England on the 15th of No-
 vember, by the silence of Charles V. after the recommencement of
 hostilities, who would have rejoiced in so good a ground of excuse,
 and by the language of some English instruments, complaining that

the French renunciations were withheld.* It is suggested by the French authors, that Edward was unwilling to execute a formal renunciation of his claim to the crown. But we can hardly suppose, that, in order to evade this condition, which he had voluntarily imposed upon himself by the treaties of Bretigni and Calais, he would have left his title to the provinces ceded by those conventions imperfect. He certainly deemed it indefeasible, and acted without any complaint from the French court, as the perfect master of those countries. He created his son Prince of Aquitaine, with the fullest powers over that new principality, holding it in fief of the crown of England by the yearly rent of an ounce of gold.† And the court of that great prince was kept for several years at Bordeaux.

* It appears that among other alleged infractions of the treaty, the king of France had received appeals from Armagnac, Albret, and other nobles of Aquitaine, not long after the peace. For, in February, 1362, a French envoy, the count de Tancarville, being in England, the privy council presented to Edward their bill of remonstrances against this conduct of France; et semble au conseil le roy d'Angleterre que considéré la fourme de la ditte paix, qui tant estoit honorable et profitable au royaume de France et a toute chretienté, que la reception desdittes appellacions, n'a mie esté bien faite, ne passée si ordenément, ne à si bon affection et amour comme il doit avoir esté faite de raison parmi l'effet et l'intention de la paix, et ailliances afferméés et entr'eux semble estre moult prejudiciables et contraires a l'onneur et a l'estat du roy et de son fils le prince et de toute la maison d'Angleterre et pourra estre evidente matiere de rebellion des subgiez, et aussi donner tres-grant occasion d'enfraindre la paix, si bon remede sur ce n'y soit mis plus hastivement. Upon the whole, they conclude that if the king of France would repair this trespass, and send his renunciation of sovereignty, the king should send his of the title of France. Martenne, Thes. Anec. t. i. p. 1487.

Four princes of the blood, or, as they are termed, Seigneurs des Fleurdelys, were detained as hostages for the due execution of

the treaty of Bretigni, which, from whatever pretence, was delayed for a considerable time. Anxious to obtain their liberty, they signed a treaty at London in November 1362, by which, among other provisions, it was stipulated, that the king of France should send fresh letters under his seal, conveying and releasing the territories ceded by the peace, without the clause contained in the former letters, retaining the ressort: et que en ycelles lettres soit expressement compris transport de la souveraineté et du ressort, &c. Et le roi d'Angleterre et ses enfans feront semblablement autiels renoncations, sur ce q'il doit faire de sa partie. Rymer, t. vi. p. 396. This treaty of London was never ratified by the French government; but I use it as a proof, that Edward imputed the want of mutual renunciations to France, and was himself ready to perform his part of the treaty.

† Rym. t. vi. p. 385—389. One clause is remarkable; Edward reserves to himself the right of creating the province of Aquitaine into a kingdom. So high were the notions of this great monarch, in an age when the privilege of creating new kingdoms was deemed to belong only to the pope and the emperor. Etiam si per nos hujusmodi provinciae ad regalis honoris titulum et fastigium imposterum sublimentur; quam erectionem faciendam per nos ex tunc specialiter reservamus.

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I have gone something more than usual into detail as to these circumstances, because a very specious account is given by some French historians and antiquaries, which tends to throw the blame of the rupture in 1368 upon Edward III.* Unfounded as was his pretension to the crown of France, and actuated as we must consider him by the most ruinous ambition, his character was unblemished by ill faith. There is no apparent cause to impute the ravages made in France by soldiers formerly in the English service to his instigation, nor any proof of a connexion with the king of Navarre, subsequently to the peace of Bretigni. But a good lesson may be drawn by conquerors from the change of fortune that befell Edward III. A long warfare, and unexampled success, had procured for him some of the richest provinces of France. Within a short time he was entirely stripped of them, less through any particular misconduct, than in consequence of the intrinsic difficulty of preserving such acquisitions. The French were already knit together as one people; and even those, whose feudal duties sometimes led them into the field against their sovereign, could not endure the feeling of dismemberment from the monarchy. When the peace of Bretigni was to be carried into effect, the nobility of the South remonstrated against the loss of the king's sovereignty, and shewed, it is said, in their charters granted by Charlemagne, a promise never to transfer the right of protecting them to another. The citizens of Rochelle implored the king not to

* Besides Villaret, and other historians, the reader, who feels any curiosity on this subject, may consult three memoirs in the 15th volume of the Academy of Inscriptions, by MM. Sécousse, Salier, and Bonamy.—These distinguished antiquaries unite, but the third with much less confidence and passion than the other two, in charging the omission upon Edward. The observations in the text will serve, I hope, to repel their arguments, which, I may be permitted to observe, no English writer has hitherto undertaken to answer. This is not said in order to assume any praise to myself; in fact, I have been guided, in a great degree, by one

of the adverse counsel, M. Bonamy, whose statement of facts is very fair, and makes me suspect a little, that he saw the weakness of his own cause.

The authority of Christine de Pisan, a contemporary panegyrist of the French king, is not perhaps very material in such a question; but she seems wholly ignorant of this supposed omission on Edward's side, and puts the justice of Charles V.'s war on a very different basis; namely, that treaties not conducive to the public interest ought not to be kept.—Collection des Mémoires, t. v. p. 137. A principle more often acted upon than avowed!

desert them, and protested their readiness to pay half their estates in taxes, rather than fall under the power of England. John with heaviness of heart persuaded these faithful people to comply with that destiny which he had not been able to surmount. At length they sullenly submitted: we will obey, they said, the English with our lips, but our hearts shall never forget their allegiance.* Such unwilling subjects might perhaps have been won by a prudent government; but the temper of the Prince of Wales, which was rather stern and arbitrary, did not conciliate their hearts to his cause.† After the expedition into Castile, a most injudicious and fatal enterprise, he attempted to impose a heavy tax upon Guienne. This was extended to the lands of the nobility, who claimed an immunity from all impositions. Many of the chief lords in Guienne and Gascony carried their complaints to the throne of Charles V. who had succeeded his father in 1364, appealing to him as the prince's sovereign and judge. After a year's delay, the king ventured to summon the Black Prince to answer these charges before the peers of France, 1368. and the war immediately recommenced between the two countries.‡

Charles V.
Rupture of
the peace of
Bretigni.

Though it is impossible to reconcile the conduct of Charles upon this occasion to those stern principles of rectitude which ought always to be obeyed, yet the exceeding injustice of Edward in the former war, and the miseries which he inflicted upon an unoffending people in the prosecution of his claim, will go far towards extenuating this breach of the treaty of Bretigni. It is observed, indeed, with some truth by Rapin, that we judge of Charles's prudence by the event; and that if he had been unfortunate in the war, he would have brought on himself the reproaches of all mankind, and even of those

* Froissart, part i. chap. 214.

† See an anecdote of his difference with the seigneur d'Albrett, one of the principal barons in Gascony, to which Froissart, who was then at Bordeaux, ascribes the alienation of the southern nobility. chap. 244.—Edward III. soon after the peace of Bretigni, revoked all his grants in Guienne.—Rymer, t. vi. p. 391.

‡ On November 20, 1368, some time before the summons of the Prince of Wales, a treaty was concluded between Charles, and Henry, king of Castile, wherein the latter expressly stipulates, that whatever parts of Guienne or England he might conquer, he would give up to the king of France.—Rymer, t. vi. p. 598.

CHAP. I. PART II. FRANCE. writers who are now most ready to extol him. But his measures had been so sagaciously taken, that except through that perverseness of fortune, against which, especially in war, there is no security, he could hardly fail of success. The elder Edward was declining through age, and the younger through disease; the ceded provinces were eager to return to their native king, and their garrisons, as we may infer by their easy reduction, feeble and ill-supplied. France, on the other hand, had recovered breath after her losses; the sons of those who had fallen or fled at Poitiers were in the field; a king, not personally warlike, but eminently wise and popular, occupied the throne of the rash and intemperate John. She was restored by the policy of Charles V. and the valour of du Guesclin. This hero, a Breton gentleman without fortune, or exterior graces, was the greatest ornament of France during that age. Though inferior, as it seems, to Lord Chandos in military skill, as well as in the polished virtues of chivalry, his unwearied activity, his talent of inspiring confidence, his good fortune, the generosity and frankness of his character, have preserved a fresh recollection of his name, which has hardly been the case with our countryman.

The English
lose all their
conquests.

In a few campaigns, the English were deprived of almost all their conquests, and even, in a great degree, of their original possessions in Guienne. They were still formidable enemies, not only from their courage and alacrity in the war, but on account of the keys of France which they held in their hands; Bordeaux, Bayonne and Calais, by inheritance or conquest; Brest and Cherbourg, in mortgage from their allies, the duke of Britany and king of Navarre. But the successor of Edward III. was Richard II.; a reign of feebleness and sedition gave no opportunity for prosecuting schemes of ambition. The war, protracted with few distinguished events for several years, was at length suspended by repeated armistices, not indeed very strictly observed, and which the animosity of the English would not permit to settle in any regular treaty. Nothing less than the terms obtained at Bretigni, emphatically called the Great Peace, would satisfy a frank and courageous people, who deemed them-

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selves cheated by the manner of its infraction. The war was therefore always popular in England, and the credit which an ambitious prince, Thomas, duke of Gloucester, obtained in that country, was chiefly owing to the determined opposition which he shewed to all French connexions. But the politics of Richard II. were of a different cast; and Henry IV. was equally anxious to avoid hostilities with France; so that before the unhappy condition of that kingdom tempted his son to revive the claims of Edward in still more favourable circumstances, there had been thirty years of respite, and even some intervals of friendly intercourse between the two nations. Both indeed were weakened by internal discord; but France more fatally than England. But for the calamities of Charles VI.'s reign, she would probably have expelled her enemies from the kingdom. The strength of that fertile and populous country was recruited with surprizing rapidity. Sir Hugh Calverley, a famous captain in the wars of Edward III. while serving in Flanders, laughed at the herald, who assured him that the king of France's army, then entering the country, amounted to 26,000 lances; asserting that he had often seen their largest musters, but never so much as a fourth part of the number.* The relapse of this great kingdom under Charles VI. was more painful and perilous than her first crisis; but she recovered from each through her intrinsic and inextinguishable resources

Charles V. surnamed the Wise, after a reign, which, if we overlook a little obliquity in the rupture of the peace of Bretigni, may be deemed one of the most honourable in French history, dying prematurely, left the crown to his son, a boy of thirteen, under the care of three ambitious uncles, the dukes of Anjou, Berry, and Burgundy. Charles had retrieved the glory, restored the tranquillity, revived the spirit of his country; the severe trials which exercised his regency, after the battle of Poitiers, had disciplined his mind; he became a sagacious statesman, an encourager of literature, a beneficent law-giver. He erred doubtless, though upon plausible grounds, in accu-

Accession of
Charles VI.
1380.

* Froissart, p. ii. c. 142.

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 I. was cold in the grave. But all the fruits of his wisdom were lost in
 PART II. the succeeding reign. In a government essentially popular, the
 FRANCE. youth or imbecillity of the sovereign creates no material derangement. In a monarchy, where all the springs of the system depend upon one central force, these accidents, which are sure in the course of a few generations to recur, can scarcely fail to dislocate the whole machine. During the forty years that Charles VI. bore the name of king, rather than reigned, in France, that country was reduced to a state far more deplorable than during the captivity of John.

A great change had occurred in the political condition of France during the fourteenth century. As the feudal militia became unserviceable, the expenses of war were increased through the necessity of taking troops into constant pay; and while more luxurious refinements of living heightened the temptation to profuseness, the means of enjoying them were lessened by improvident alienations of the domain. Hence taxes, hitherto almost unknown, were levied incessantly, and with all those circumstances of oppression, which are natural to the fiscal proceedings of an arbitrary government. These, as has been said before, gave rise to the unpopularity of the two first Valois, and were nearly leading to a complete revolution in the convulsions that succeeded the battle of Poitiers. The confidence reposed in Charles V.'s wisdom and œconomy kept every thing at rest during his reign, though the taxes were still very heavy. But the seizure of his vast accumulations by the duke of Anjou, and the ill faith with which the new government imposed subsidies, after promising their abolition, provoked the people of Paris, and sometimes of other places, to repeated seditions. The States General not only compelled the government to revoke these impositions, and restore the nation, at least according to the language of edicts, to all their liberties, but, with less wisdom, refused to make any grant of money. Indeed a remarkable spirit of democratical freedom was then rising in those classes, on whom the crown and nobility had so long trampled. An example was held out by the Flemings, who, always

Seditions at
Paris.

tenacious of their privileges, because conscious of their ability to maintain them, were engaged in a furious conflict with Louis, count of Flanders.* The court of France took part in this war; and after obtaining a decisive victory over the citizens of Ghent, Charles VI. returned to chastise those of Paris.† Unable to resist the royal army, the city was treated as the spoil of conquest; its immunities abridged; its most active leaders put to death; a fine of uncommon severity imposed; and the taxes renewed by arbitrary prerogative. But the people preserved their indignation for a favourable moment; and were unfortunately led by it, when rendered subservient to the ambition of others, into a series of crimes, and a long alienation from the interests of their country.

It is difficult to name a limit beyond which taxes will not be borne without impatience, when they appear to be called for by necessity, and faithfully applied; nor is it impracticable for a skilful minister to deceive the people in both these respects. But the sting of taxation is wastefulness. What high-spirited man could see without

* The Flemish rebellion, which originated in an attempt, suggested by bad advisers to the count, to impose a tax upon the people of Ghent without their consent, is related in a very interesting manner by Froissart, p. ii. c. 57. &c. who equals Herodotus in simplicity, liveliness, and power over the heart. I would advise the historical student to acquaint himself with these transactions, and with the corresponding tumults at Paris.—They are among the eternal lessons of history; for the unjust encroachments of courts, the intemperate passions of the multitude, the ambition of demagogues, the cruelty of victorious factions, will never cease to have their parallels and their analogies; while the military achievements of distant times afford, in general, no instruction, and can hardly occupy too little of our time in historical studies. The prefaces to the fifth and sixth volumes of the *Ordonnances des Rois de France*, contain more accurate information as to the Parisian disturbances, than can be found in Froissart.

† If Charles VI. had been defeated by the Flemings, the insurrection of the Parisians, Froissart says, would have spread over France; *toute gentillesse et noblesse eût été morte et perdue en France*; nor would the Jacquerie have ever been *si grande et si horrible*. c. 120. To the example of the Gantois he ascribes the tumults which broke out about the same time in England as well as in France. c. 84. The Flemish insurrection would probably have had more important consequences, if it had been cordially supported by the English government. But the danger of encouraging that democratical spirit which so strongly leavened the commons of England, might justly be deemed by Richard II.'s council much more than a counterbalance to the advantage of distressing France. When too late, some attempts were made, and the Flemish towns acknowledged Richard as king of France in 1384. Rymer, t. vii. p. 448.

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FRANCE. indignation the earnings of his labour, yielded ungrudgingly to the public defence, become the spoils of parasites and speculators? It is this that mortifies the liberal hand of public spirit; and those statesmen, who deem the security of government to depend not on laws and armies, but on the moral sympathies and prejudices of the people, will vigilantly guard against even the suspicion of prodigality. In the present stage of society, it is impossible to conceive that degree of misapplication which existed in the French treasury under Charles VI., because the real exigencies of the state could never again be so inconsiderable. Scarcely any military force was kept up; and the produce of the grievous impositions then levied, was chiefly lavished upon the royal household, or plundered by the officers of government.* This naturally resulted from the peculiar and afflicting circumstances of this reign. The duke of Anjou pretended to be intitled by the late king's appointment, if not by the constitution of France, to exercise the government as regent during the minority;† but this period, which would naturally be very short, a law of

* The expenses of the royal household, which under Charles V. were 94,000 livres, amounted in 1412 to 450,000. Villaret, t. xiii. p. 243. Yet the king was so ill supplied, that his plate had been pawned. When Montagu, minister of the finances, was arrested in 1409, all this plate was found concealed in his house.

† It has always been an unsettled point, whether the presumptive heir is entitled to the regency of France; and, if he be so to the regency, whether this includes the custody of the minor's person. The particular case of the duke of Anjou is subject to a considerable apparent difficulty. Two instruments of Charles V., bearing the same date of October 1374, as published by Dupuy, (*Traité de majorité des Rois*, p. 161.) are plainly irreconcilable with each other; the former giving the exclusive regency to the duke of Anjou, reserving the custody of the minor's person to other guardians; the latter conferring not only this custody, but the government of the kingdom, on the queen, and on the dukes of Burgundy

and Bourbon, without mentioning the duke of Anjou's name. Daniel calls these testaments of Charles V., whereas they are in the form of letters patent; and supposes that the king had suppressed both, as neither party seems to have availed itself of their authority in the discussions that took place after the king's death. (*Hist. de France*, t. iii. p. 662. edit. 1720.) Villaret, as is too much his custom, slides over the difficulty without notice. But M. de Bréquigny, (*Mém. de l'Acad. des Inscript.* t. i. p. 533.) observes that the second of these instruments, as published by M. Sécouisse, in the *Ordonnances des Rois*, t. vi. p. 406. differs most essentially from that in Dupuy, and contains no mention whatever of the government. It is therefore easily reconcilable with the first, that confers the regency on the duke of Anjou. As Dupuy took it from the same source as Sécouisse, namely, the *Tresor des Chartes*, a strong suspicion of wilful interpolation falls upon him, or upon the editor of his posthumous work, printed in 1655. This date will readily suggest a

Charles V. having fixed the age of majority at thirteen, was still more abridged by consent; and after the young monarch's coronation, he was considered as reigning with full personal authority. Anjou, Berry, and Burgundy, along with the king's maternal uncle, the duke of Bourbon, divided the actual exercise of government.

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The first of these soon undertook an expedition into Italy, to possess himself of the crown of Naples, in which he perished. Berry was a profuse and voluptuous man, of no great talents; though his rank, and the middle position which he held between struggling parties, made him rather conspicuous throughout the revolutions of that age. The most respectable of the king's uncles, the duke of Bourbon, being further removed from the royal stem, and of an unassuming character, took a less active part than his three coadjutors. Burgundy, an ambitious and able prince, maintained the ascendancy, until Charles, weary of a restraint, which had been protracted by his uncles till he was in his twenty-first year, 1387 took the reins into his own hands. The dukes of Burgundy and Berry retired from court, and the administration was committed to a different set of men, at the head of whom appeared the constable de Clisson, a soldier of great fame in the English wars. The people rejoiced in the fall of the princes, by whose exactions they had been plundered; but the new ministers soon rendered themselves odious by similar conduct. The fortune of Clisson, after a few years favour, amounted to 1,700,000 livres, equal in weight of silver, to say nothing of the depreciation of money, to ten times that sum at present.*

Charles VI. had reigned five years from his minority, when he was seized with a derangement of intellect, which continued, through a series of recoveries and relapses, to his death. He passed thirty years in a pitiable state of suffering, neglected by his family, par-

Derange-
ment of
Charles VI.

motive for such an interpolation, to those who recollect the circumstances of France at that time, and for some years before; Anne of Austria having maintained herself in

possession of a testamentary regency against the presumptive heir.

* Froissart, p. iv. c. 46.

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Parties of
Burgundy
and Orleans.

particularly by that most infamous of women, Isabel of Bavaria, his queen, to a degree which is hardly credible. The ministers were immediately disgraced; the princes re-assumed their stations. For several years the duke of Burgundy conducted the government. But this was in opposition to a formidable rival, Louis, duke of Orleans, the king's brother. It was impossible that a prince so near to the throne, favoured by the queen perhaps with criminal fondness, and by the people on account of his external graces, should not acquire a share of power. He succeeded at length in obtaining the whole management of affairs; wherein the outrageous dissoluteness of his conduct, and still more the excessive taxes imposed, rendered him altogether odious. The Parisians compared his administration with that of the duke of Burgundy; and from that time ranged themselves on the side of the latter and his family, throughout the long distractions to which the ambition of these princes gave birth.

Murder of
the duke of
Orleans.

1407

The death of the duke of Burgundy, in 1404, after several fluctuations of success between him and the duke of Orleans, by no means left his party without a head. Equally brave and ambitious, but far more audacious and unprincipled, his son John, surnamed Sans-peur, sustained the same contest. A reconciliation had been, however, brought about with the duke of Orleans; they had sworn reciprocal friendship, and participated, as was the custom, in order to render these obligations more solemn, in the same communion. In the midst of this outward harmony, the duke of Orleans was assassinated in the streets of Paris. After a slight attempt at concealment, Burgundy avowed and boasted of the crime, to which he had been instigated, it is said, by somewhat more than political jealousy.* From this fatal moment, the dissensions of the royal family began to assume the complexion of civil war. The queen, the sons of the duke of Orleans, with the dukes of Berry and

* Orleans is said to have boasted of the duchess of Burgundy's favours. Vill. t. xii. p. 474. Amelgard, who wrote about eighty

years after the time, says, vim etiam inferre attentare præsumpsit. Notices des Manuscrits du Roi, t. i. p. 411.

Bourbon, united against the assassin. But he possessed, in addition to Burgundy, his own apanage, the county of Flanders, as his maternal inheritance; and the people of Paris, who hated the duke of Orleans, readily forgave, or rather exulted in his murder.

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It is easy to estimate the weakness of the government, from the terms upon which the duke of Burgundy was permitted to obtain pardon at Chartres, a year after the perpetration of the crime. As soon as he entered the royal presence every one rose, except the king, queen, and dauphin. The duke, approaching the throne, fell on his knees; when a lord, who acted as a sort of counsel for him, addressed the king: "Sire, the duke of Burgundy your cousin and
"servant is come before you, being informed that he has incurred
"your displeasure, on account of what he caused to be done to the
"duke of Orleans your brother, for your good and that of your
"kingdom, as he is ready to prove when it shall please you to
"hear it; and therefore requests you, with all humility, to dismiss
"your resentment towards him, and to receive him into your
"favour."*

This insolent apology was all the atonement that could be extorted for the assassination of the first prince of the blood. It is not wonderful that the duke of Burgundy soon obtained the management of affairs, and drove his adversaries from the capital. The princes, headed by the father-in-law of the young duke of Orleans, the count of Armagnac, from whom their party was now denominated, raised their standard against him; and the north of France was rent to pieces by a protracted civil war, in which neither party scrupled any extremity of pillage or massacre. Several times peace was made; but each faction, conscious of their own insincerity, suspected that of their adversaries. The king, of whose name both availed themselves, was only in some doubtful intervals of reason, capable of rendering legitimate the acts of either. The dauphin, aware of the tyranny which each faction

Civil war
between the
parties.

* Monstrelet, part i. f. 112.

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This dauphin, and his next brother, died within sixteen months of each other, by which the rank devolved upon Charles, youngest son of the king. The count of Armagnac, now constable of France, retained possession of the government. But his severity and the weight of taxes revived the Burgundian party in Paris, which a rigid proscription had endeavoured to destroy. He brought on his head the implacable hatred of the queen, whom he had not only shut out from public affairs, but disgraced by the detection of her gallantries. Notwithstanding her ancient enmity to the duke of Burgundy, she made overtures to him, and being delivered by his troops from confinement, declared herself openly on his side. A few obscure persons stole the city keys, and admitted the Burgundians into Paris. The tumult which arose shewed in a moment the disposition of the inhabitants; but this was more horribly displayed a few days afterwards, when the populace rushing to the prisons, massacred the constable d'Armagnac and his partizans. Between three and four thousand persons were murdered on this day, which has no parallel but what our own age has witnessed, in the massacre perpetrated by the same ferocious populace of Paris, under circumstances nearly similar. Not long afterwards an agreement took place between the duke of Burgundy, who had now the king's person, as well as the capital, in his hands, and the dauphin, whose party was enfeebled by the loss of almost all its leaders. This reconciliation, which mutual interest should have rendered permanent, had lasted a very short time, when the duke of Burgundy was assassinated at an interview with Charles, in his presence, and by the hands of his

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1412

1414

April,
1417

1417

June 12,
1418

1419

Assassina-
tion of the
duke of Bur-
gundy.

friends, though not perhaps with his previous knowledge.* From whomsoever the crime proceeded, it was a deed of infatuation; and plunged France afresh into a sea of perils, from which the union of these factions had just afforded a hope of extricating her.

It has been mentioned already, that the English war had almost ceased during the reigns of Richard II. and Henry IV. The former of these was attached by inclination, and latterly by marriage, to the court of France: and though the French government shewed at first some disposition to revenge his dethronement, yet the new king's success, as well as domestic quarrels, deterred it from any serious renewal of the war. A long commercial connexion had subsisted between England and Flanders, which the dukes of Burgundy, when they became sovereigns of the latter country upon the death of Count Louis in 1384, were studious to preserve by separate truces.† They acted upon the same pacific policy, when their interest predominated in the councils of France. Henry had even a negotiation pending for the marriage of his eldest son with a princess of

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Intrigues of
French
princes with
England.

* There are three suppositions conceivable to explain this important passage in history, the assassination of John Sans-peur. 1. It was pretended by the dauphin's friends at the time, and has been maintained more lately, (St. Foix, *Essais sur Paris*, t. iii. p. 209. edit. 1767.) that he had premeditated the murder of Charles, and that his own was an act of self-defence. This is, I think, quite improbable; the dauphin had a great army near the spot, while the duke was only attended by five hundred men. Villaret indeed, and St. Foix, in order to throw suspicion upon the duke of Burgundy's motives, assert that Henry V. accused him of having made proposals to him which he could not accept without offending God; and conjecture that this might mean the assassination of the dauphin. But the expressions of Henry do not relate to any private proposals of the duke, but to demands made by him and the queen, as proxies for Charles VI., in conferences for peace, which, he says, he could not accept, without offending God,

and contravening his own letters patent. (Rymer, t. ix. p. 790.) It is not, however, very clear what this means. 2. The next hypothesis is, that it was the deliberate act of Charles. But his youth, his feebleness of spirit, and, especially, the consternation into which, by all testimonies, he was thrown by the event, are rather adverse to this explanation. 3. It remains only to conclude, that Tanegui de Chastel, and other favourites of the dauphin, long attached to the Orleans faction, who justly regarded the duke as an infamous assassin, and might question his sincerity, or their own safety, if he should regain the ascendant, took advantage of this opportunity to commit an act of retaliation, less criminal, but not less ruinous in its consequences, than that which had provoked it. Charles, however, by his subsequent conduct, recognized their deed, and naturally exposed himself to the resentment of the young duke of Burgundy.

† Rymer, t. viii. p. 511. Villaret, t. xii. p. 174.

CHAP. Burgundy,* when an unexpected proposal from the opposite side
 I. set more tempting views before his eyes. The Armagnacs, pressed
 PART II. hard by the duke of Burgundy, offered in consideration of only
 FRANCE. 4000 troops, the pay of which they would themselves defray, to assist
 May, him in the recovery of Guienne and Poitou. Four princes of the
 1412 blood, Berry, Bourbon, Orleans, and Alençon, disgraced their names
 by signing this treaty.† Henry broke off his alliance with Burgundy,
 and sent a force into France, which found on its arrival, that the
 princes had made a separate treaty, without the least concern
 for their English allies. After his death, Henry V. engaged for
 some time in a series of negociations with the French court, where
 the Orleans party now prevailed, and with the duke of Burgundy.
 He even secretly treated at the same time for a marriage with Ca-
 tharine of France, (which seems to have been his favourite, as it was
 ultimately his successful, object,) and with a daughter of the duke;
 a duplicity not creditable to his memory.‡ But Henry's ambition,
 which aimed at the highest quarry, was not long fettered by negocia-
 tion; and indeed his proposals of marrying Catharine were coupled
 with such exorbitant demands, as France, notwithstanding all her
 weakness, could not admit; though she would have ceded Guienne,
 and given a vast dowry with the princess.§ He invaded Normandy,
 took Harfleur, and won the great battle of Azincourt on his march
 to Calais.||

Invasion of
France by
Henry V.

1415

The flower of French chivalry was mowed down in this fatal day,

* Rymer, t. viii. p. 721.

† Rymer, t. viii. pp. 726. 737, 738.

‡ Rymer, t. ix. p. 136.

§ The terms required by Henry's ambas-
sadors in 1415 were the crown of France;
or, at least, reserving Henry's rights to that,
Normandy, Touraine, Maine, Guienne, with
the homage of Britany and Flanders. The
French offered Guienne and Saintonge, and
a dowry of 800,000 gold crowns for Catha-
rine. The English demanded 2,000,000.
Rym. t. ix. p. 218.

|| The English army at Azincourt was

probably of not more than 15,000 men; the
French were, at the least, 50,000, and, by
some computations, much more numerous.
They lost 10,000 killed, of whom 9,000 were
knights or gentlemen. Almost as many
were made prisoners. The English, ac-
cording to Monstrelet, lost 1,600 men; but
their own historians reduce this to a very
small number. It is curious that the Duke
of Berry, who advised the French to avoid
an action, had been in the battle of Poitiers,
fifty-nine years before. Vill. t. xiii. p. 355.

but especially the chiefs of the Orleans party, and the princes of the royal blood, met with death or captivity. Burgundy had still suffered nothing; but a clandestine negociation had secured the duke's neutrality, though he seems not to have entered into a regular alliance till a year after the battle of Azincourt; when, by a secret treaty at Calais, he acknowledged the right of Henry to the crown of France, and his own obligation to do him homage, though its performance was to be suspended till Henry should become master of a considerable part of the kingdom.* In a second invasion, the English atchieved the conquest of Normandy; and this, in all subsequent negociations for peace during the life of Henry, he would never consent to relinquish. After several conferences, which his demands rendered abortive, the French court at length consented to add Normandy to the cessions made in the peace of Bretigni;† and the treaty, though labouring under some difficulties, seems to have been nearly completed, when the duke of Burgundy, for reasons unexplained, suddenly came to a reconciliation with the dauphin. This event, which must have been intended adversely to Henry, would probably have broken off all parley on the subject of peace, if it had not been speedily followed by one still more surprizing, the assassination of the duke of Burgundy at Montereau.

CHAP.
I.
PART II.
FRANCE.

July 11,
1419

Sept. 10,
1419

An act of treachery so apparently unprovoked inflamed the minds of that powerful party, which had looked up to the duke as their leader and patron. The city of Paris, especially, abjured at once its respect for the supposed author of the murder, though the legitimate heir of the crown. A solemn oath was taken by all ranks to revenge the crime; the nobility, the clergy, the parliament, vying with the populace in their invectives against Charles, whom they now styled only pretended (*soi disant*) dauphin. Philip, son of the assassinated duke, who with all the popularity and much of the ability of his father, did not inherit his depravity, was instigated by

* Confer Rym. t. ix. p. 34. 138. 304. 394. The last reference is to the treaty of Calais.

† Rym. t. ix. p. 628. 763. Nothing can be more insolent than the tone of Henry's instructions to his commissioners. p. 628.

CHAP. I. a pardonable excess of filial resentment, to ally himself with the king of England. These passions of the people and the duke of Burgundy, concurring with the imbecillity of Charles VI., and the rancour of Isabel towards her son, led to the treaty of Troyes. This compact, signed by the queen and duke, as proxies of the king, who had fallen into a state of unconscious idiocy, stipulated that Henry V., upon his marriage with Catharine, should become immediately regent of France, and, after the death of Charles, succeed to the kingdom, in exclusion not only of the dauphin, but of all the royal family.* It is unnecessary to remark that these flagitious provisions were absolutely invalid. But they had at the time the strong sanction of force; and Henry might plausibly flatter himself with a hope of establishing his own usurpation as firmly in France, as his father's had been in England. What neither the comprehensive policy of Edward III., the energy of the Black Prince, the valour of their Knollyses and Chandoses, nor his own victories could attain, now seemed, by a strange vicissitude of fortune, to court his ambition. During two years that Henry lived after the treaty of Troyes, he governed the north of France with unlimited authority in the name of Charles VI. The latter survived his son-in-law but a few weeks; and the infant Henry VI. was immediately proclaimed king of France and England, under the regency of his uncle the duke of Bedford.

State of
France at
the acces-
sion of
Charles VII.
1422

Notwithstanding the disadvantage of a minority, the English cause was less weakened by the death of Henry, than might have been expected. The duke of Bedford partook of the same character, and resembled his brother in faults as well as virtues; in his haughtiness

* As if through shame on account of what was to follow, the first articles contain petty stipulations about the dower of Catharine. The sixth gives the kingdom of France after Charles's decease to Henry and his heirs. The seventh concedes the immediate regency. Henry kept Normandy by right of conquest, not in virtue of any stipulation in

the treaty, which he was too proud to admit. The treaty of Troyes was confirmed by the States General, or rather by a partial convention which assumed the name, in December, 1420. Rym. t. x. p. 30. The parliament of England did the same. Id. p. 110. It is printed at full length by Villaret, t. xv. p. 84.

and arbitrary temper, as in his energy and address. At the accession of Charles VII., the usurper was acknowledged by all the northern provinces of France, except a few fortresses, by most of Guienne, and the dominions of Burgundy. The duke of Britany soon afterwards acceded to the treaty of Troyes, but changed his party again several times within a few years. The central provinces, with Languedoc, Poitou, and Dauphiné, were faithful to the king. For some years the war continued without any decisive result; but the balance was clearly swayed in favour of England. For this it is not difficult to assign several causes. The animosity of the Parisians and the duke of Burgundy against the Armagnac party still continued, mingled in the former with dread of the king's return, whom they judged themselves to have inexpiably offended. The war had brought forward some accomplished commanders in the English army; surpassing, not indeed in valour and enterprize, but in military skill, any whom France could oppose to them. Of these the most distinguished, besides the duke of Bedford himself, were Warwick, Salisbury and Talbot. Their troops too were still very superior to the French. But this we must in candour allow, proceeded in a great degree from the mode in which they were raised. The war was so popular in England, that it was easy to pick the best and stoutest recruits,* and their high pay allured men of respectable condition to the service. We find in Rymer a contract of the earl of Salisbury to supply a body of troops, receiving a shilling a day for every man at arms, and sixpence for each archer.† This is perhaps equal to fifteen times the sum at our present value of money. They were bound indeed to furnish their own equipments and horses. But France was totally exhausted by her civil and foreign war; and incompetent to defray the expenses even of the small force which de-

Causes of
the success
of the Eng-
lish.

* Monstrelet, part i. f. 303.

† Rym. t. x. p. 392. This contract was for 600 men at arms, including six bannerets, and thirty-four bachelors; and for 1,700 archers; bien et suffisamment montez, armez, et arraeiez comme a leurs estats appartient.

The pay was, for the earl 6s. 8d. a day; for a banneret, 4s.; for a bachelor, 2s.; for every other man at arms, 1s.; and for each archer, 6d. Artillery-men were paid higher than men at arms.

CHAP. I. fended the wreck of the monarchy. Charles VII. lived in the utmost
 PART II. poverty at Bourges.* The nobility had scarcely recovered from the
 FRANCE. fatal slaughter of Azincourt, and the infantry, composed of peasants
 or burgesses, which had made their army so numerous upon that day,
 whether from inability to compel their services, or experience of their
 inefficacy, were never called into the field. It became almost en-
 tirely a war of partizans. Every town in Picardy, Champagne,
 Maine, or wherever the contest might be carried, was a fortress;
 and in the attack or defence of these garrisons, the valour of both
 nations was called into constant exercise. This mode of warfare
 was undoubtedly the best in the actual state of France, as it gradu-
 ally improved her troops, and flushed them with petty successes.
 But what principally led to its adoption, was the license and insub-
 ordination of the royalists, who, receiving no pay, owned no con-
 troul, and thought that, provided they acted against the English and
 Burgundians, they were free to choose their own points of attack.
 Nothing can more evidently shew the weakness of France, than the
 high terms by which Charles VII. was content to purchase the as-
 sistance of some Scottish auxiliaries. The earl of Buchan was made
 constable; the earl of Douglas had the duchy of Touraine, and a
 new title, Lieutenant General of the kingdom. At a subsequent time,
 Charles offered the province of Saintonge to James I., for an aid of
 6,000 men. These Scots fought bravely for France, though unsuc-
 cessfully, at Crevant and Verneuil; but it must be owned they set
 a sufficient value upon their service. Under all these disadvantages,
 it would be unjust to charge the French nation with any inferiority
 of courage, even in the most unfortunate periods of this war. Though
 frequently panic-struck in the field of battle, they stood sieges of
 their walled towns with matchless spirit and endurance. Perhaps
 some analogy may be found between the character of the French
 commonalty during the English invasion, and the Spaniards of the
 late peninsular war. But to the exertions of those brave nobles who

* Villaret, t. xiv. p. 302.

restored the monarchy of Charles VII., Spain has afforded no adequate parallel. CHAP. I.

It was, however, in the temper of Charles VII. that his enemies found their chief advantage. This prince is one of the few, whose character has been improved by prosperity. During the calamitous morning of his reign, he shrunk from fronting the storm, and strove to forget himself in pleasure. Though brave, he was never seen in war; though intelligent, he was governed by flatterers. Those who had committed the assassination at Montereau under his eyes, were his first favourites; as if he had determined to avoid the only measure through which he could hope for better success, a reconciliation with the duke of Burgundy. The count de Richemont, brother of the duke of Britany, who became afterwards one of the chief pillars of his throne, consented to renounce the English alliance, and accept the rank of constable, on condition that these favourites should quit the court. Two others, who successively gained a similar influence 1424. over Charles, Richemont publicly caused to be assassinated, assuring the king, that it was for his own and the public good. Such was the debasement of morals and government, which twenty years of civil war had produced! Another favourite, La Tremouille, took the dangerous office, and, as might be expected, employed his influence against Richemont, who for some years lived on his own domains, rather as an armed neutral than a friend, though he never lost his attachment to the royal cause.

It cannot therefore surprize us, that with all these advantages the regent duke of Bedford had almost completed the capture of the fortresses north of the Loire, when he invested Orleans in 1428. If this city had fallen, the central provinces, which were less furnished with defensible places, would have lain open to the enemy; and it is said that Charles VII. in despair was about to retire into Dauphiné. At this time his affairs were restored by one of the most marvellous revolutions in history. A country girl overthrew the power of England. We cannot pretend to explain the surprizing story of the Maid of Orleans; for, however easy it may be to suppose that a

PART II.

FRANCE.

Character of Charles VII.

Siege of Orleans.

Joan of Arc.

CHAP. I. heated and enthusiastic imagination produced her own visions, it is
 PART II. a much greater problem to account for the credit they obtained, and
 FRANCE. for the success that attended her. Nor will this be solved by the
 hypothesis of a concerted stratagem; which, if we do not judge
 altogether from events, must appear liable to so many chances of
 failure, that it could not have suggested itself to any rational person.
 However, it is certain that the appearance of Joan of Arc turned
 the tide of war, which from that moment flowed without interruption
 in Charles's favour. A superstitious awe enfeebled the sinews of the
 English. They hung back in their own country, or deserted from
 the army, through fear of the incantations, by which alone they
 conceived so extraordinary a person to succeed.* As men always
 make sure of Providence for an ally, whatever untoward fortune
 appeared to result from preternatural causes was at once ascribed to
 infernal enemies; and such bigotry may be pleaded as an excuse,
 though a very miserable one, for the detestable murder of this
 heroine.†

The king
 retrieves his
 affairs,

The spirit which Joan of Arc had roused did not subside. France
 recovered confidence in her own strength, which had been chilled by
 a long course of adverse fortune. The king too shook off his indo-
 lence,‡ and permitted Richemont to exclude his unworthy favourites

* Rym. t. x. p. 458—472. This however is conjecture; for the cause of their deser-
 tion is not mentioned in these proclamations, though Rymer has printed it in their title. But
 the duke of Bedford speaks of the turn of success as astonishing, and due only to the
 superstitious fear which the English had conceived of a female magician. Rymer, t. x.
 p. 408.

† M. de l'Averdy, to whom we owe the copious account of the proceedings against
 Joan of Arc, as well as those which Charles VII. instituted in order to rescind the former,
 contained in the third volume of *Notices des Manuscrits du Roi*, has justly made this re-
 mark, which is founded on the eagerness shewn by the university of Paris in the pro-
 secution, and on its being conducted before an inquisitor; a circumstance exceedingly

remarkable in the ecclesiastical history of France. But another material observation
 arises out of this. The Maid was pursued with peculiar bitterness by her countrymen
 of the English, or rather Burgundian, faction; a proof, that in 1430 their animosity against
 Charles VII. was still ardent.

‡ It is a current piece of history, that Ag-
 nes Sorel, mistress of Charles VII. had the merit of dissuading him from giving up the
 kingdom as lost, at the time when Orleans was besieged in 1428. Mezeray, Daniel,
 Villaret, and, I believe, every other modern historian, have mentioned this circumstance;
 and some of them, among whom is Hume, with the addition, that Agnes threatened to
 leave the court of Charles for that of Henry, affirming, that she was born to be the mistress
 of a great king. The latter part of this tale

from the court. This led to a very important consequence. The duke of Burgundy, whose alliance with England had been only the fruit of indignation at his father's murder, fell naturally, as that passion wore out, into sentiments more congenial to his birth and interests. A prince of the house of Capet could not willingly see the inheritance of his ancestors transferred to a stranger. And he had met with provocation both from the regent and the duke of Gloucester; who, in contempt of all policy and justice, had endeavoured, by an invalid

CHAP.
I.
PART II.
FRANCE.

is evidently a fabrication, Henry VI. being at the time a child of seven years old. But I have, to say the least, great doubts of the main story. It is not mentioned by contemporary writers. On the contrary, what they say of Agnes leads me to think the dates incompatible. Agnes died (in child-bed, as some say) in 1450; twenty-two years after the siege of Orleans. Monstrelet says, that she had been about five years in the service of the queen, and the king taking pleasure in her liveliness and wit, common fame had spread abroad, that she lived in concubinage with him. She certainly had a child, and was willing that it should be thought the king's; but he always denied it, *et le pouvoit bien avoir emprunté ailleurs.* pt. iii. f. 25. Olivier de la Marche, another contemporary, who lived in the court of Burgundy, says, about the year 1444, *le Roy avoit nouvellement eslévé une pauvre demoiselle, gentille femme, nommée Agnes Sorel, et mis en tel triumphe et tel pouvoir, que son estat estoit a comparer aux grandes princesses de Royaume, et certes c'estoit une des plus belles femmes que je vey oncques, et fit en sa qualité beaucoup au Royaume de France. Elle avançoit devers le Roy jeunes gens d'armes, et gentils compaignons, et dont le Roy depuis fut bien servy.* La Marche, *Mem. Hist.* t. viii. p. 145. Du Clercq, whose memoirs were first published in the same collection, says, that Agnes mourut par poison moult jeune. *Ib.* t. viii. p. 410. And the continuator of Monstrelet, probably John Chartier, speaks of the youth and beauty of Agnes, which exceeded that of any other woman in France, and of the favour shewn her by the king, which so much excited the displeasure of the dauphin, on his mother's account, that he was suspected

of having caused her to be poisoned. fol. 68. The same writer affirms of Charles VII. that he was, before the peace of Arras, *de moult belle vie et devote*; but afterwards *enlaidit sa vie de tenir malles femmes en son hostel.* &c. fol. 86.

It is for the reader to judge how far these passages render it improbable, that Agnes Sorel was the mistress of Charles VII. at the siege of Orleans in 1428, and, consequently, whether she is entitled to the praise which she has received, of being instrumental in the deliverance of France. The tradition, however, is as ancient as Francis I. who made in her honour a quatrain which is well known. This probably may have brought the story more into vogue, and led Mezeray, who was not very critical, to insert it in his history, from which it has passed to his followers. Its origin was apparently the popular character of Agnes. She was the Nell Gwyn of France; and justly beloved, not only for her charity and courtesy, but for bringing forward men of merit, and turning her influence, a virtue very rare in her class, towards the public interest. From thence it was natural to bestow upon her, in after times, a merit not ill suited to her character, but which an accurate observation of dates seems to render impossible. But whatever honour I am compelled to detract from Agnes Sorel, I am willing to transfer undiminished to a more unblemished female, the injured queen of Charles VII. Mary of Anjou, who has hitherto only shared with the usurper of her rights the credit of awakening Charles from his pusillanimity. Though I do not know on what foundation even this rests, it is not unlikely to be true, and, in deference to the sex, let it pass undisputed.

CHAP. marriage with Jacqueline countess of Hainault and Holland to
 I. obtain provinces which Burgundy designed for himself. Yet the
 PART II. union of his sister with Bedford, the obligations by which he was
 FRANCE. bound, and most of all, the favour shewn by Charles VII. to the
 and is re- assassins of his father, kept him for many years on the English side,
 conciled to the duke of Burgundy. although rendering it less and less assistance. But at length he con-
 1435 cluded a treaty at Arras, the terms of which he dictated rather as a
 conqueror, than a subject negotiating with his sovereign. Charles,
 however, refused nothing for such an end; and, in a very short
 time, the Burgundians were ranged with the French against their
 old allies of England.

Impolicy of
the English.

It was now time for the latter to abandon those magnificent pro-
 jects of conquering France, which temporary circumstances alone
 had seemed to render feasible. But as it is a natural effect of good
 fortune in the game of war, to render a people insensible to its
 gradual change, the English could not persuade themselves that
 their affairs were irretrievably declining. Hence they rejected the
 offer of Normandy and Guienne, subject to the feudal superiority of
 France, which was made to them at the congress of Arras;* and
 some years afterwards, when Paris with the adjacent provinces
 had been lost, the English ambassadors, though empowered by
 their private instructions to relax, stood upon demands quite dispro-
 portionate to the actual position of affairs.† As foreign enemies,
 they were odious even in that part of France which had acknowledged
 Henry;‡ and when the duke of Burgundy deserted their side, Paris
 and every other city were impatient to throw off the yoke. A

* Villaret says: Les plenipotentiaires de Charles offrirent la cession de la Normandie et de la Guienne, *en toute propriété, sous la clause de l'hommage à la couronne*, t. xv. p. 174. But he does not quote his authority, and I do not like to rely on an historian, not eminent in accuracy for fact, or precision in language. If his expression is correct, the French must have given up the feudal appeal, or *ressort*, which had been the great point in dispute between Edward III. and

Charles V. preserving only a homage *per paragium*, as it was called, which implied no actual supremacy. Monstrelet says only, que per certaines conditions luy seroient accordées les seigneuries de Guienne et Normandie.

† See the instructions given to the English negociators in 1439, at length, in Rymer, t. x. p. 724.

‡ Villaret, t. xiv. p. 448.

feeble monarchy, and a selfish council, completed their ruin: the necessary subsidies were raised with difficulty, and, when raised, misapplied. It is a proof of the exhaustion of France, that Charles was unable, for several years, to reduce Normandy or Guienne, which were so ill provided for defence.* At last he came with collected strength to the contest, and breaking an armistice upon slight pretences, within two years overwhelmed the English garrisons in each of these provinces. All the inheritance of Henry II. and Eleanor, all the conquests of Edward III. and Henry V. except Calais and a small adjacent district, were irrecoverably torn from the crown of England. A barren title, that idle trophy of disappointed ambition, was preserved, with strange obstinacy, to our own age.

CHAP.
I.

PART II.

FRANCE.

They lose
all their con-
quests.

1449

In these second English wars, we find little left of that generous feeling, which had, in general, distinguished the contemporaries of Edward III. The very virtues which a state of hostility excites are not proof against its long continuance, and sink at last into brutal fierceness. Revenge and fear excited the two factions of Orleans and Burgundy to all atrocious actions. The troops serving under partizans on detached expeditions, according to the system of the war, lived at free quarters on the people. The histories of the time are full of their crimes, which fell heaviest, as is the common case, upon the unprotected peasantry.† Even those laws of war,

Condition
of France
during the
second Eng-
lish wars.

* Amelgard, from whose unpublished memoirs of Charles VII. and Louis XI. some valuable extracts are made in the *Notices des Manuscrits*, t. i. p. 403, attributes the delay in recovering Normandy solely to the king's slothfulness and sensuality. In fact, the people of that province rose upon the English, and almost emancipated themselves with little aid from Charles.

† Monstrelet *passim*. A long metrical complaint of the people of France, curious as a specimen of versification, as well as a testimony to the misfortunes of the time, may be found in this historian. part i. fol. 321. Notwithstanding the treaty of Arras, the French and Burgundians made continual incursions upon each other's frontiers, especially about Laon, and in the Vermandois.

So that the people had no help, says Monstrelet, si non de crier miserablement a Dieu leur createur vengeance; et que pis estoit, quand ils obtenoient aucun sauf-conduit d'aucuns capitaines peu en estoit entretenu, mesmement tout d'un parti. pt. ii. f. 139. These pillagers were called Ecorcheurs, because they stripped the people of their shirts. And this name superseded that of Armagnacs, by which one side had hitherto been known. Even Xaintrailles and La Hire, two of the bravest champions of France, were disgraced by these habits of outrage. Ibid. fol. 144. 150. 175: Oliv. de la Marche, in *Collect. des Mémoires*, t. viii. p. 25: t. v. p. 323.

Pour la plupart, says Villaret, se faire guerrier, ou voleur de grands chemins, signifioit la même chose.

CHAP. which the courteous sympathies of chivalry had enjoined, were
 I. swept away by a merciless fury. Garrisons surrendering after a
 PART II. brave defence were put to death. Instances of this are very frequent.
 FRANCE. Henry V. excepts Alain Blanchard, a citizen who had distinguished himself during the siege, from the capitulation of Rouen, and orders him to execution. At the taking of a town of Champagne, John of Luxemburg, the Burgundian general, stipulates that every fourth and sixth man should be at his discretion; which he exercises by causing them all to be hanged.* Four hundred English from Pontoise, stormed by Charles VII. in 1441, are paraded in chains and naked through the streets of Paris, and thrown afterwards into the Seine. This infamous action cannot but be ascribed to the king.†

Subsequent
 events in the
 reign of
 Charles VII.

At the expulsion of the English, France emerged from the chaos with an altered character and new features of government. The royal authority and supreme jurisdiction of the parliament were universally recognized. Yet there was a tendency towards insubordination left among the great nobility, arising in part from the remains of old feudal privileges, but still more from that lax administration, which, in the convulsive struggles of the war, had been suffered to prevail. In the south, were some considerable vassals, the houses of Foix, Albret, and Armagnac, who, on account of their distance from the seat of empire, had always maintained a very independent conduct. The dukes of Britany and Burgundy were of a more formidable character, and might rather be ranked among foreign powers, than privileged subjects. The princes too of the royal blood, who, during the late reign, had learned to partake or contend

* Monstrelet, part ii. f. 79. This John of Luxemburg, count de Ligny, was a distinguished captain on the Burgundian side, and for a long time would not acquiesce in the treaty of Arras. He disgraced himself by giving up to the duke of Bedford his prisoner Joan of Arc for 10,000 francs. The famous count de St. Pol was his nephew, and inherited his great possessions in the

county of Vermandois. Monstrelet relates a singular proof of the good education which his uncle gave him. Some prisoners having been made in an engagement, si fut le jeune comte de St. Pol mis en voye de guerre; car le comte de Ligny son oncle luy en fait occire aucuns, le quel y prenoit grand plaisir. part ii. fol. 95.

† Villaret, t. xv. p. 327.

for the management, were ill-inclined towards Charles VII. himself jealous, from old recollections, of their ascendancy. They saw that the constitution was verging rapidly towards an absolute monarchy, from the direction of which they would studiously be excluded. This apprehension gave rise to several attempts at rebellion during the reign of Charles VII. and to the war, commonly entitled, for the Public Weal (*du bien public*), under Louis XI. Among the pretences alledged by the revolters in each of these, the injuries of the people were not forgotten ;* but from the people they received small support. Weary of civil dissension, and anxious for a strong government to secure them from depredation, the French had no inducement to entrust even their real grievances to a few malecontent princes, whose regard for the common good they had much reason to distrust. Every circumstance favoured Charles VII. and his son in the attainment of arbitrary power. The country was pillaged by military ruffians. Some of these had been led by the dauphin to a war in Germany, but the remainder still infested the high roads and villages. Charles established his companies of ordinance, the basis of the French regular army, in order to protect the country from such depredators. They consisted of about nine thousand soldiers, all cavalry, of whom fifteen hundred were heavy-armed ; a force not very considerable, but the first, except mere body-guards, which had been raised in any part of Europe, as a national standing army.† These troops were paid out of the produce of a permanent tax, called the *taille* ; an innovation still more important than the former.

* The confederacy formed at Nevers in 1441, by the dukes of Orleans and Bourbon, with many other princes, made a variety of demands, all relating to the grievances which different classes of the state, or individuals among themselves, suffered under the administration of Charles. These may be found at length in Monstrelet, p. ii. f. 193 ; and are a curious document of the change which was then working in the French constitution. In his answer, the king claims the right, in urgent cases, of levying taxes without waiting for the consent of the States-general.

† Olivier de la Marche speaks very much in favour of the companies of ordonnance, as having repressed the plunderers, and restored internal police. *Collect. des Mémoires*, t. viii. p. 148. Amelgard pronounces a vehement philippic against them ; but it is probable that his observation of the abuses they had fallen into was confined to the reign of Louis XI. *Notices des Manuscrits*, ubi supra.

CHAP. But the present benefit cheating the people, now prone to submissive
 I. habits, little or no opposition was made ; except in Guienne, the in-
 PART II. habitants of which had speedy reason to regret the mild government
 FRANCE. of England, and vainly endeavoured to return to its protection.*

Louis XI. It was not long before the new despotism exhibited itself in its
 1461 harshest character. Louis XI. son of Charles VII. who, during his
 His charac- came to the throne greatly endowed with those virtues and vices,
 ter. which conspire to the success of a king. Laborious vigilance in
 business, contempt of pomp, affability to inferiors, were his excel-
 lencies ; qualities especially praiseworthy in an age characterized by
 idleness, love of pageantry, and insolence. To these virtues he
 added a perfect knowledge of all persons eminent for talents or in-
 fluence in the countries with which he was connected ; and a well-
 judged bounty, that thought no expense wasted to draw them into
 his service or interest. In the fifteenth century, this political art had
 hardly been known, except perhaps in Italy ; the princes of Europe
 had contended with each other by arms, sometimes by treachery ;
 but never with such complicated subtlety of intrigue. Of that insi-
 dious cunning, which has since been brought to perfection, Louis XI.

* The insurrection of Guienne in 1452, which for a few months restored that province to the English crown, is no where adequately accounted for, except in the curious memoirs of Amelgard, above mentioned. It proceeded solely from the arbitrary taxes imposed by Charles VII. in order to defray the expenses of his regular army. The people of Bordeaux complained of exactions not only contrary to their ancient privileges, but to the positive conditions of their capitulation. But the king was deaf to such remonstrances. The province of Guienne, he says, then perceived that it was meant to subject it to the same servitude as the rest of France, where the leeches of the state boldly maintain, as a fundamental maxim, that the king has a right to tax all his subjects, how and when he pleases ; which is to advance, that, in France, no man has any thing that he can

call his own, and that the king can take all at his pleasure ; the proper condition of slaves, whose peculium enjoyed by their master's permission belongs to him, like their persons, and may be taken away whenever he chuses. Thus situated, the people of Guienne, especially those of Bordeaux, alarmed themselves, and excited by some of the nobility, secretly sought about for means to regain their ancient freedom ; and having still many connexions with persons of rank in England, they negotiated with them, &c. *Notices des Manuscrits*, p. 433. The same cause is assigned to this revolution by Du Clercq, also a contemporary writer, living in the dominions of Burgundy. *Collection des Mémoires*, t. ix. p. 400. Villaret has not known, or not chosen to know, any thing of the matter.

may be deemed not absolutely the inventor, but the most eminent improver; and its success has led perhaps to too high an estimate of his abilities. Like most bad men, he sometimes fell into his own snare, and was betrayed by his confidential ministers, because his confidence was generally reposed in the wicked. And his dissimulation was so notorious, his tyranny so oppressive, that he was naturally surrounded by enemies, and had occasion for all his craft to elude those rebellions and confederacies which might perhaps not have been raised against a more upright sovereign. At one time the monarchy was on the point of sinking before a combination, which would have ended in dismembering France. This was the league denominated of the Public Weal, in which all the princes and great vassals of the French crown were concerned; the dukes of Britany, Burgundy, Alençon, Bourbon, the count of Dunois, so renowned for his valour in the English wars, the families of Foix and Armagnac; and, at the head of all, Charles duke of Berry, the king's brother and presumptive heir. So unanimous a combination was not formed without strong provocation from the king, or at least without weighty grounds for distrusting his intentions; but the more remote cause of this confederacy, as of those which had been raised against Charles VII. was the critical position of the feudal aristocracy from the increasing power of the crown. This war of the Public Weal was in fact a struggle to preserve their independence; and from the weak character of the duke of Berry, whom they would, if successful, have placed upon the throne, it is possible that France might have been in a manner partitioned among them, in the event of their success, or at least that Burgundy and Britany would have thrown off the sovereignty that galled them.

League denominated of the Public Weal.

1464

The strength of the confederates in this war much exceeded that of the king; but it was not judiciously employed, and after an indecisive battle at Montlhery, they failed in the great object of reducing Paris, which would have obliged Louis to fly from his dominions. It was his policy to promise every thing, in trust that fortune would afford some opening to repair his losses, and give

CHAP. scope to his superior prudence. Accordingly by the treaty of
 I. Conflans, he not only surrendered afresh the towns upon the Somme,
 PART II. which he had lately redeemed from the duke of Burgundy, but
 FRANCE. invested his brother with the duchy of Normandy as his apanage.

Apanages. The term apanage denotes the provision made for the younger children of a king of France. This always consisted of lands and feudal superiorities, held of the crown by the tenure of peerage. It is evident, that this usage, as it produced a new class of powerful feudataries, was hostile to the interests and policy of the sovereign, and retarded the subjugation of the ancient aristocracy. But an usage coeval with the monarchy was not to be abrogated, and the scarcity of money rendered it impossible to provide for the younger branches of the royal family by any other means. It was restrained, however, as far as circumstances would permit. Philip IV. declared that the county of Poitiers, bestowed by him on his son, should revert to the crown on the extinction of male heirs. But this, though an important precedent, was not, as has often been asserted, a general law. Charles V. limited the apanages of his own sons to twelve thousand livres of annual value in land. By means of their apanages, and through the operation of the Salic law, which made their inheritance of the crown a less remote contingency, the princes of the blood royal in France were at all times (for the remark is applicable long after Louis XI.) a distinct and formidable class of men, whose influence was always disadvantageous to the reigning monarch, and, in general, to the people.

No apanage had ever been granted in France so enormous as the duchy of Normandy. One third of the whole national revenue, it is declared, was derived from that rich province. Louis could not therefore sit down under such terms, as, with his usual insincerity, he had accepted at Conflans. In a very short time he attacked Normandy, and easily compelled his brother to take refuge in Britany; nor were his enemies ever able to procure the restitution of Charles's apanage. During the rest of his reign, Louis had powerful coalitions to withstand; but his prudence and compliance with

circumstances, joined to some mixture of good fortune, brought him safely through his perils. The duke of Britany, a prince of moderate talents, was unable to make any formidable impression, though generally leagued with the enemies of the king. The less powerful vassals were successively crushed by Louis with decisive vigour: the duchy of Alençon was confiscated; the count of Armagnac was assassinated; the duke of Nemours, and the constable of St. Pol, a politician as treacherous as Louis, who had long betrayed both him and the duke of Burgundy, suffered upon the scaffold. The king's brother, Charles, after disquieting him for many years, died suddenly in Guienne, which had finally been granted as his apanage, with strong suspicions of having been poisoned by the king's contrivance. Edward IV. was too dissipated and too indolent to be fond of war; and, though he once entered France with an army more considerable than could have been expected after such civil bloodshed as England had witnessed, he was induced, by the stipulation of a large pension, to give up the enterprize.* So terrible was still in France the apprehension of an English war, that Louis prided himself upon no part of his policy so much as the warding this blow. Edward shewed a desire to visit Paris; but the king gave him no invitation, lest, he said, his brother should find some handsome women there, who might tempt him to return in a different manner. Hastings, Howard, and others of Edward's ministers, were secured by bribes in the interests of Louis, which the first of these did not scruple to receive at the same time from the duke of Burgundy.†

1472

1475

* The army of Edward consisted of 1,500 men at arms, and 14,000 archers; the whole very well-appointed. Comines, t. xi. p. 238. There seems to have been a great expectation of what the English would do, and great fears entertained by Louis, who grudged no expense to get rid of them.

† Comines, l. vi. c. 2. Hastings had the mean cunning to refuse to give his receipt for the pension he took from Louis XI.

"This present, he said to the king's agent, comes from your master's good pleasure, and not at my request; and if you mean I should receive it, you may put it here into my sleeve, but you shall have no discharge from me; for I will not have it said, that the Great Chamberlain of England is a pensioner of the king of France, nor have my name appear in the books of the Chambre des Comptes." Ibid.

CHAP.

I.

PART II.

FRANCE.

House of
Burgundy.Its suc-
cessive ac-
quisitions.

This was the most powerful enemy whom the craft of Louis had to counteract. In the last days of the feudal system, when the house of Capet had almost atchieved the subjugation of those proud vassals among whom it had been originally numbered, a new antagonist sprung up to dispute the field against the crown. John, king of France, granted the duchy of Burgundy, by way of apanage, to his third son, Philip. By his marriage with Margaret, heiress of Louis, count of Flanders, Philip acquired that province, Artois, the *county* of Burgundy, (or Franche-comté,) and the Nivernois. Philip the Good, his grandson, who carried the prosperity of this family to its height, possessed himself, by various titles, of the several other provinces which compose the Netherlands. These were fiefs of the empire, but latterly not much dependent upon it, and alienated by their owners without its consent. At the peace of Arras, the districts of Macon and Auxerre were absolutely ceded to Philip, and great part of Picardy conditionally made over to him, redeemable on the payment of four hundred thousand crowns.* These extensive, though not compact dominions, were abundant in population and wealth, fertile in corn, wine, and salt, and full of commercial activity. Thirty years of peace which followed the treaty of Arras, with a mild and free government, raised the subjects of Burgundy to a degree of prosperity, quite unparalleled in

* The duke of Burgundy was personally excused from all homage and service to Charles VII.; but, if either died, it was to be paid by the heir, or to the heir. Accordingly, on Charles's death, Philip did homage to Louis. This exemption can hardly therefore have been inserted to gratify the pride of Philip, as historians suppose. Is it not probable, that, during his resentment against Charles, he might have made some vow never to do him homage; which this reservation in the treaty was intended to preserve?

It is remarkable that Villaret says, the duke of Burgundy was positively excused by the 25th article of the peace of Arras

from doing homage to Charles, or *his successors kings of France*. t. xvi. p. 404. For this assertion too he seems to quote the Trésor des Chartes, where probably the original treaty is preserved. Nevertheless, it appears otherwise, as published by Monstrelet at full length, who could have no motive to falsify it; and Philip's conduct in doing homage to Louis is hardly compatible with Villaret's assertion. Daniel copies Monstrelet without any observation. In the same treaty, Philip is entitled, Duke, by the grace of God; which was reckoned a mark of independence, and not usually permitted to a vassal.

those times of disorder; and this was displayed in general sumptuousness of dress and feasting. The court of Philip and of his son Charles was distinguished for its pomp and riches, for pageants and tournaments; the trappings of chivalry, perhaps without its spirit; for the military character of Burgundy had been impaired by long tranquillity.*

During the lives of Philip and Charles VII., each understood the other's rank, and their amity was little interrupted. But their successors, the most opposite of human kind in character, had one common quality, ambition, to render their antipathy more powerful. Louis was eminently timid and suspicious in policy; Charles intrepid beyond all men, and blindly presumptuous: Louis stooped to any humiliation to reach his aim; Charles was too haughty to seek the fairest means of strengthening his party. An alliance of his daughter with the duke of Guienne, brother of Louis, was what the malecontent French princes most desired, and the king most dreaded; but Charles, either averse to any French connexion, or willing to keep his daughter's suitors in dependence, would never directly accede to that, or any other proposition for her marriage. On Philip's death, in 1467, he inherited a great treasure, which he soon wasted in the prosecution of his schemes. These were so numerous and vast, that he had not time to live, says Comines, to complete them, nor would one half of Europe have contented him. It was his intention to assume the title of king; and the emperor Frederic III. was at one time actually on his road to confer this dignity, when some suspicion caused him to retire; and the project was never renewed.† It is evident that if Charles's capacity had born any proportion to his pride and courage, or if a prince less politic than

Character
of Charles
duke of
Burgundy.

* P. de Comines, l. i. c. 2 and 3.; l. v. c. 9. Du Clercq, in Collection des Mémoires, t. ix. p. 389. In the investiture granted by John to the first Philip of Burgundy, a reservation is made, that the royal taxes shall be levied throughout that apuage. But during the long hostility between

the kingdom and duchy, this could not have been enforced; and by the treaty of Arras, Charles surrendered all right to tax the duke's dominions. Monstrelet, f. 114.

† Garnier, t. xviii. p. 62. It is observable, that Comines says not a word of this; for which Garnier seems to quote Belcarius,

CHAP.
I.
PART II.
FRANCE.

Louis XI. had been his contemporary in France, the province of Burgundy must have been lost to the monarchy. For several years these great rivals were engaged, sometimes in open hostility, sometimes in endeavours to over-reach each other; but Charles, though not much more scrupulous, was far less an adept in these mysteries of politics than the king.

Insubordi-
nation of the
Flemish
cities.

Notwithstanding the power of Burgundy, there were some disadvantages in its situation. It presented (I speak of all Charles's dominions under the common name, Burgundy) a very exposed frontier on the side of Germany and Swisserland, as well as France; and Louis exerted a considerable influence over the adjacent princes of the empire, as well as the united cantons. The people of Liege, a very populous city, had for a long time been continually rebelling against their bishops, who were the allies of Burgundy; Louis was of course not backward to foment their insurrections; which sometimes gave the dukes a good deal of trouble. The Flemings, and especially the people of Ghent, had been during a century noted for their republican spirit and contumacious defiance of their sovereign. Liberty never wore a more unamiable countenance than among these burghers; who abused the strength she gave them by cruelty and insolence. Ghent, when Froissart wrote, about the year 1400, was one of the strongest cities in Europe, and would have required an army of two hundred thousand men, to besiege it on every side, so as to shut up all access by the Lys and Scheldt. It contained eighty thousand men of age to bear arms;* a calculation which, although, as I presume, much exaggerated, is evidence of great actual populousness. Such a city was absolutely impregnable, at a time when artillery was very imperfect both in its construction and management. Hence, though the citizens of Ghent were generally beaten in the field with great slaughter, they obtained tolerable

a writer of the sixteenth age. But even Philip, when Morvilliers, Louis's chancellor, used menaces towards him, interrupted the orator with these words: Je veux que chacun

scache que, si j'eusse voulu, je fusse roi. Villaret, t. xvii. p. 44.

* Froissart, part ii. c. 67.

terms from their masters, who knew the danger of forcing them to a desperate defence.

No taxes were raised in Flanders, or indeed throughout the dominions of Burgundy, without consent of the three estates. In the time of Philip, not a great deal of money was levied upon the people; but Charles obtained every year a pretty large subsidy, which he expended in the hire of Italian and English mercenaries.* An almost uninterrupted success had attended his enterprizes for a length of time, and rendered his disposition still more over-weening. His first failure was before Nuz, a little town near Cologne, the possession of which would have made him nearly master of the whole course of the Rhine, for he had already obtained the landgraviate of Alsace. Though compelled to raise this siege, he succeeded in occupying, next year, the duchy of Lorraine. But his overthrow was reserved for an enemy whom he despised, and whom none could have thought equal to the contest. The Swiss had given him some slight provocation, for which they were ready to atone: but Charles was unused to forbear; and perhaps Switzerland came within his projects of conquest. At Granson in the Pays de Vaud, he was entirely routed with more disgrace than slaughter.†

CHAP.
I.
PART II.
FRANCE.

1474

1476

Defeats of
Charles at
Granson
and Morat.

* Comines, l. iv. c. 13. It was very reluctantly that the Flemings granted any money. Philip once begged for a tax on salt, promising never to ask any thing more; but the people of Ghent, and, in imitation of them, the whole county refused it. Du Clercq, p. 389. Upon his pretence of taking the cross, they granted him a subsidy, though less than he had requested, on condition that it should not be levied, if the crusade did not take place, which put an end to the attempt. The states knew well, that the duke would employ any money they gave him in keeping up a body of gens d'armes, like his neighbour, the king of France; and, though the want of such a force exposed their country to pillage, they were too good patriots to place the means of enslaving it in the hands of their sovereign. Grand doute faisoient les sujets, et pour plusieurs raisons, de se mettre en cette sujétion, ou ils voyoient le royaume de France, a cause

de ses gens d'armes. A la verité, leur grand doute n'estoit pas sans cause; car quand il se trouva cinq cens hommes d'armes, la volonté luy vint d'en avoir plus, et de plus hardiment entreprendre contre tous ses voisins. Comines, l. iii. c. 4. 9.

Du Clercq, a contemporary writer of very good authority, mentioning the story of a certain widow who had remarried the day after her husband's death, says that she was in some degree excusable, because it was the practice of the duke and his officers to force rich widows into marrying their soldiers or other servants. t. ix. p. 418.

† A famous diamond, belonging to Charles of Burgundy, was taken in the plunder of his tent by the Swiss at Granson. After several changes of owners, most of whom were ignorant of its value, it became the first jewel in the French crown. Garnier, t. xviii. p. 361.

CHAP. But, having reassembled his troops, and met the confederate army
 I. of Swiss and Germans at Morat near Berne, he was again defeated
 PART II. with vast loss. On this day the power of Burgundy was dissipated :
 FRANCE. deserted by his allies, betrayed by his mercenaries, he set his life
 upon another cast at Nancy, desperately giving battle to the duke
 His death. of Lorraine with a small dispirited army, and perished in the
 1477 engagement.

Claim of
 Louis XI. to
 the succe-
 sion of Bur-
 gundy.

Now was the moment, when Louis, who had held back while his enemy was breaking his force against the rocks of Swisserland, came to gather a harvest which his labour had not reaped. Charles left an only daughter, undoubted heiress of Flanders and Artois, as well as of his dominions out of France ; but whose right of succession to the duchy of Burgundy was more questionable. Originally, the great fiefs of the crown descended to females ; and this was the case with respect to the two first mentioned. But John had granted Burgundy to his son Philip by way of apanage ; and it was contended, that apanages reverted to the crown in default of male heirs. In the form of Philip's investiture, the duchy was granted to him and his lawful heirs, without designation of sex. The construction therefore must be left to the established course of law. This, however, was by no means acknowledged by Mary, Charles's daughter, who maintained ; both that no general law restricted apanages to male heirs ; and that Burgundy had always been considered as a feminine fief, John himself having possessed it, not by reversion as king, (for descendants of the first dukes were then living,) but by inheritance derived through females.* Such was this question of succession between

* It is advanced with too much confidence by several French historians, either that the ordinances of Philip IV. and Charles V. constituted a general law against the descent of apanages to female heirs ; or that this was a fundamental law of the monarchy. Du Clos, Hist. de Louis XI. t. ii. p. 252 ; Garnier, Hist. de France, t. xviii. p. 258. The latter position is refuted by frequent instances of female succession ; thus Artois

had passed by a daughter of Louis le Male into the house of Burgundy. As to the above mentioned ordinances, the first applies only to the county of Poitiers ; the second does not contain a syllable that relates to succession. (Ordonnances des Rois, t. vi. p. 54.) The doctrine of excluding female heirs was more consonant to the pretended Salic law, and the recent principles as to inalienability of domain, than to the analogy

Louis XI. and Mary of Burgundy, upon the merits of whose pre- CHAP.
tensions I will not pretend altogether to decide; but shall only I.
observe, that if Charles had conceived his daughter to be excluded PART II.
from this part of his inheritance, he would probably, at Conflans or FRANCE.
Peronne, where he treated upon the vantage-ground, have attempted
at least to obtain a renunciation of Louis's claim.

There was one obvious mode of preventing all further contest, and of aggrandizing the French monarchy far more than by the reunion of Burgundy—this was the marriage of Mary with the dauphin, which was ardently wished in France. Whatever obstacles might occur to this connexion, it was natural to expect on the opposite side: from Mary's repugnance to an infant husband, or from the jealousy which her subjects were likely to entertain, of being incorporated with a country worse governed than their own. The arts of Louis would have been well employed in smoothing these impediments.* But he chose to seize upon as many towns as, in those critical circumstances, lay exposed to him, and stripped the young duchess of Artois and Franche Comté. Expectations of the marriage he sometimes held out, but, as it seems, without sincerity. Indeed he contrived irreconcilably to alienate Mary by a shameful perfidy, betraying the ministers whom she had entrusted upon a secret mission, to the people of Ghent, who put them to the torture, and afterwards to death, in the presence and amidst the tears and supplication of their mistress. Thus the French alliance becoming odious in France, this princess married Maximilian of Austria, son of the emperor Frederic: a connexion which Louis strove to pre-

Conduct of
Louis.

1477

of feudal rules and precedents. M. Gail-
lard, in his *Observations sur l'Histoire de*
Velly, Villaret, et Garnier, has a judicious
note on this subject. t. iii. p. 304.

* Robertson, as well as some other mo-
derns, have maintained, on the authority of
Comines, that Louis XI. ought in policy to
have married the young princess to the count
of Angouleme, father of Francis I., a con-
nexion which she would not have disliked.
But certainly nothing could have been more

adverse to the interests of the French mo-
narchy than such a marriage, which would
have put a new house of Burgundy at the
head of those princes, whose confederacies
had so often endangered the crown. Co-
mines is one of the most judicious of histo-
rians; but his sincerity may be rather doubt-
ful in the opinion above mentioned; for he
wrote in the reign of Charles VIII. when
the count of Angouleme was engaged in the
same faction as himself.

CHAP. I. PART II. FRANCE. vent, though it was impossible then to foresee that it was ordained to retard the growth of France, and to bias the fate of Europe during three hundred years. The war lasted till after the death of Mary, who left one son Philip, and one daughter Margaret. By a treaty of peace concluded at Arras, in 1482, it was agreed, that this daughter should become the dauphin's wife, with Franche Comté and Artois, which Louis held already, for her dowry, to be restored in case the marriage should not take effect. The homage of Flanders, and appellant jurisdiction of the parliament over it, were reserved to the crown.

Sickness
and death of
Louis XI.

Mean while Louis was lingering in disease and torments of mind, the retribution of fraud and tyranny. Two years before his death, he was struck with an apoplexy, from which he never wholly recovered. As he felt his disorder increasing, he shut himself up in a palace near Tours, to hide from the world the knowledge of his decline.* His solitude was like that of Tiberius at Capreæ, full of terror and suspicion, and deep consciousness of universal hatred. All ranks, he well knew, had their several injuries to remember: the clergy, whose liberties he had sacrificed to the see of Rome, by revoking the Pragmatic Sanction of Charles VII.; the princes, whose blood he had poured upon the scaffolds; the parliament, whose course of justice he had turned aside; the commons, who groaned under his extortion, and were plundered by his soldiery.† The palace, fenced with portcullises and spikes of iron, was guarded by archers and cross-bow men, who shot at any that approached by night. Few entered this den; but to them he showed himself in

* For Louis's illness and death, see Comines, l. vi. c. 7—12, and Garnier, t. xix. p. 112, &c. Plessis, his last residence, about an English mile from Tours, is now a dilapidated farm-house, and can never have been a very large building. The vestiges of royalty about it are few; but the principal apartments have been destroyed, either in the course of ages, or at the revolution.

† See a remarkable chapter in Philip de Comines, l. iv. c. 19. wherein he tells us that

Charles VII. had never raised more than 1,800,000 francs a year in taxes; but Louis XI. at the time of his death raised 4,700,000, exclusive of some military impositions; et surement c'estoit compassion de voir et scavoir la pauvreté du peuple. In this chapter he declares his opinion, that no king can justly levy money on his subjects without their consent, and repels all common arguments to the contrary.

magnificent apparel, contrary to his former custom, hoping thus to disguise the change of his meagre body. He distrusted his friends and kindred, his daughter and his son, the last of whom he had not suffered even to read or write, lest he should too soon become his rival. No man ever so much feared death, to avert which he stooped to every meanness and sought every remedy. His physician had sworn, that if he were dismissed, the king would not survive a week; and Louis, enfeebled by sickness and terror, bore the rudest usage from this man, and endeavoured to secure his services by vast rewards. Always credulous in relics, though seldom restrained by superstition from any crime,* he eagerly bought up treasures of this sort, and even procured a Calabrian hermit, of noted sanctity, to journey as far as Tours in order to restore his health. Philip de Comines, who attended him during this infirmity, draws a parallel between the torments he then endured, and those he had formerly inflicted on others. Indeed the whole of his life was vexation of spirit. "I have known him, says Comines, and been his servant in the flower of his age, and in the time of his greatest prosperity; but never did I see him without uneasiness and care. Of all amusements he loved only the chace, and hawking in its season. And in this he had almost as much uneasiness as pleasure; for he rode hard and got up early, and sometimes went a great way, and regarded no weather: so that he used to return very weary, and almost ever in wrath with some one. I think that from his childhood he never had any respite of labour and trouble to his death. And I am certain that if all the happy days of his life, in which he had more enjoyment than uneasiness, were numbered, they would be found very few: and at least that they would be twenty of sorrow for every one of pleasure."†

* An exception to this was when he swore by the cross of St. Lo, after which he feared to violate his oath. The constable of St. Pol, whom Louis invited with many assurances to court, bethought himself of requiring this oath, before he trusted his promises, which the king refused; and St. Pol prudently staid away. Garn. t. xviii. p. 72.

Some report, that he had a similar respect for a leaden image of the Virgin, which he wore in his hat. "A perjured prince a leaden saint revere."

† Comines, l. vi. c. 13. The passage in the text is put together out of several parts of this chapter.

CHAP.

I.

PART II.

FRANCE.

Charles

VIII.

1483

Charles VIII. was about thirteen years old, when he succeeded his father Louis. Though the law of France fixed the majority of her kings at that age, yet it seems not to have been strictly regarded on this occasion; and at least Charles was a minor by nature, if not by law. A contest arose therefore for the regency, which Louis had entrusted to his daughter Anne, wife of the lord de Beaujeu, one of the Bourbon family. The duke of Orleans, afterwards Louis XII., claimed it as presumptive heir of the crown, and was seconded by most of the princes. Anne, however, maintained her ground, and ruled France for several years in her brother's name with singular spirit and address, in spite of the rebellions which the Orleans party raised up against her. These were supported by the duke of Britany, the last of the great vassals of the crown, whose daughter, as he had no male issue, was the object of as many suitors as Mary of Burgundy.

Affairs of
Britany.

The duchy of Britany was peculiarly circumstanced. The inhabitants, whether sprung from the ancient republicans of Armorica, or, as some have thought, from an emigration of our islanders during the Saxon invasion, had never belonged to the body of the French monarchy. They were governed by their own princes and laws; though tributary, perhaps, as the weaker to the stronger, to the Merovingian kings.* In the ninth century, the dukes of Britany did homage to Charles the Bald, the right of which was transferred afterwards to the dukes of Normandy. This formality, at that time no token of real subjection, led to consequences beyond the views of either party. For when the feudal chains, that had hung so loosely upon the shoulders of the great vassals, began to be straightened by

* Gregory of Tours says, that the Bretons were subject to France from the death of Clovis, and that their chiefs were styled counts, not kings. l. iv. c. 4. However, it seems clear from Nigellus, a writer of the life of Louis the Debonair, that they were almost independent in his time. There was even a march of the Britanic frontier, which separated it from France; and they had a

king of their own. It is hinted, indeed, that they had been formerly subject; for after a victory of Louis over them, Nigellus says, *Imperio sociat perdita regna diu*. In the next reign of Charles the Bald, Hincmar tells us, *regnum undique a Paganis, et falsis Christianis, scilicet Britonibus, est circumscriptum*. Epist. 18. See too *Capitularia Car. Calvi. A. D. 877. tit. 23.*

the dexterity of the court, Britany found itself drawn among the rest to the same centre. The old privileges of independence were treated as usurpation; the dukes were menaced with confiscation of their fief, their right of coining money disputed, their jurisdiction impaired by appeals to the parliament of Paris. However, they stood boldly upon their right, and always refused to pay *liege-homage*, which implied an obligation of service to the lord, in contradistinction to *simple homage*, which was a mere symbol of feudal dependence.*

About the time that Edward III. made pretension to the crown of France, a controversy somewhat resembling it arose in the duchy of Britany, between the families of Blois and Montfort. This led to a long and obstinate war, connected all along, as a sort of underplot, with the great drama of France and England. At last, Montfort, Edward's ally, by the defeat and death of his antagonist, obtained the duchy, of which Charles V. soon after gave him the investiture. This prince and his family were generally inclined to English connexions; but the Bretons would seldom permit them to be effectual. Two cardinal feelings guided the conduct of this brave and faithful people; the one, an attachment to the French nation and monarchy in opposition to foreign enemies; the other, a zeal for their own privileges, and the family of Montfort, in opposition to the encroachments of the crown. In Francis II. the present duke, the male line of that family was about to be extinguished. His daughter Anne was naturally the object of many suitors, among whom were particularly distinguished the duke of Orleans, who seems to have been preferred by herself; the lord of Albret, a member of the Gascon family of Foix, favoured by the Breton nobility, as most likely to preserve the peace and liberties of their country, but whose age rendered him not very acceptable to a youthful princess; and Maximilian, king of the Romans. Britany was rent by factions, and over-run by the armies of the regent of France, who did not lose this opportunity of interfering with its domestic troubles, and of perse-

* Villaret, t. xii. p. 82. t. xv. p. 199.

CHAP. I. PART II. FRANCE. 1489

cutting her private enemy, the duke of Orleans. Anne of Britany, upon her father's death, finding no other means of escaping the addresses of Albret, was married, by proxy, to Maximilian. This however aggravated the evils of the country, since France was resolved at all events to break off so dangerous a connexion. And as Maximilian himself was unable, or took not sufficient pains, to relieve his betrothed wife from her embarrassments, she was ultimately compelled to accept the hand of Charles VIII. He had long been engaged by the treaty of Arras, to marry the daughter of Maximilian, and that princess was educated at the French court. But this engagement had not prevented several years of hostilities, and continual intrigues with the towns of Flanders against Maximilian. The double injury which the latter sustained in the marriage of Charles with the heiress of Britany seemed likely to excite a protracted contest; but the king of France, who had other objects in view, and perhaps was conscious that he had not acted a fair part, soon came to an accommodation, by which he restored Artois and Franche Comté.

Marriage of
Charles
VIII. to the
duchess of
Britany.

1492

France was now consolidated into a great kingdom; the feudal system was at an end. The spirit of Philip-Augustus, the paternal wisdom of St. Louis, the policy of Philip the Fair, had laid the foundations of a powerful monarchy, which, neither the arms of England, nor seditions of Paris, nor rebellions of the princes were able to shake. Besides the original fiefs of the French crown, it had acquired two countries beyond the Rhone, which properly depended only upon the empire, Dauphiné, under Philip of Valois, by the bequest of Humbert, the last of its princes; and Provence, under Louis XI. by that of René of Anjou.* Thus having conquered herself, if I

1481

* The country now called Dauphiné formed part of the kingdom of Arles or Provence, bequeathed by Rodolph III. to the emperor Conrad II. But the dominion of the empire over these new acquisitions being little more than nominal, a few of the chief nobility converted their respective fiefs into independent principalities. One of these was the lord, or dauphin of Vienne, whose

family became ultimately masters of the whole province. Humbert, the last of these, made John, son of Philip of Valois, his heir, on condition that Dauphiné should be constantly preserved as a separate possession, not incorporated with the kingdom of France. This bequest was confirmed by the emperor Charles IV. whose supremacy over the province was thus recognized by the kings of

may use the phrase, and no longer apprehensive of any foreign enemy, France was prepared, under a monarch flushed with sanguine ambition, to carry her arms into other countries, and to contest the prize of glory and power upon the ample theatre of Europe.†

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I.
PART II.
FRANCE.

France, though it soon came to be altogether disregarded.

Provence, like Dauphiné, was changed from a feudal dependency to a sovereignty, in the weakness and dissolution of the kingdom of Arles, about the early part of the eleventh century. By the marriage of Douce, heiress of the first line of sovereign counts, with Raymond Berenger, count of Barcelona, in 1112, it passed into that distinguished family. In 1167, it was occupied or usurped by Alfonso II. king of Aragon, a relation, but not heir, of the house of Berenger. Alfonso bequeathed Provence to his second son, of the same name, from whom it descended to Raymond Berenger IV. This count dying without male issue in 1245, his youngest daughter Beatrice took possession by virtue of her father's testament. But this succession being disputed by other claimants, and especially by Louis IX. who had married her elder sister, she compromised differences by marrying Charles of Anjou, the king's brother. The family of Anjou reigned in Provence, as well as in Naples, till the death of Joan in 1382, who having no children, adopted Louis duke of Anjou, brother of Charles V. as her successor. This second Angevin line ended in 1481 by the death of Charles III. though Renier duke of Lorraine, who was descended though a female, had a claim which it does not seem easy to repel by argument. It was very easy however for Louis XI. to whom Charles III. had bequeathed his rights, to repel it by force, and accordingly he took possession of Provence, which was permanently united to the crown by letters patent of Charles VIII. in 1486.*

† The principal authority, exclusive of original writers, on which I have relied for this chapter, is the History of France by Velly, Villaret, and Garnier; a work which, notwithstanding several defects, has absolutely superseded those of Mezeray and Daniel. The

part of the Abbé Velly comes down to the middle of the eighth volume, (12mo edition) and of the reign of Philip de Valois. His continuator Villaret was interrupted by death in the seventeenth volume, and in the reign of Louis XI. In my references to this history, which for common facts I have not thought it necessary to make, I have merely named the author of the particular volume which I quote. This has made the above explanation convenient, as the reader might imagine that I referred to three distinct works. Of these three historians, Garnier, the last, is the most judicious, and, I believe, the most accurate. His prolixity, though a material defect, and one which has occasioned the work itself to become an immeasurable undertaking, which could never be completed on the same scale, is chiefly occasioned by too great a regard to details, and is more tolerable than a similar fault in Villaret, proceeding from a love of idle declamation and sentiment. Villaret, however, is not without merits. He embraces, perhaps more fully than his predecessor Velly, those collateral branches of history which an enlightened reader requires almost in preference to civil transactions, the laws, manners, literature, and in general the whole domestic records of a nation. These subjects are not always well treated; but the book itself, to which there is a remarkably full index, forms upon the whole a great repository of useful knowledge. Villaret had the advantage of official access to the French archives, by which he has no doubt enriched his history; but his references are indistinct, and his composition breathes an air of rapidity and want of exactness. Velly's characteristics are not very dissimilar. The style of both is exceedingly bad, as has been severely noticed, along with their other defects, by Gaillard, in *Observations sur l'Histoire de Velly, Villaret, et Garnier*. (4 vols. 12mo. Paris, 1806.)

* Art de vérifier les Dates, t. ii. p. 445.—Garnier, t. xix. p. 57. 474.

CHAPTER II.

ON THE FEUDAL SYSTEM, ESPECIALLY IN FRANCE.

PART I.

State of ancient Germany—Effects of the Conquest of Gaul by the Franks—Tenures of Land—Distinction of Laws—Constitution of the ancient Frank Monarchy—Gradual Establishment of Feudal Tenures—Principles of a Feudal Relation—Ceremonies of Homage and Investiture—Military Service—Feudal Incidents of Relief, Aid, Wardship, &c.—Different species of Fiefs—Feudal Law-books.

GERMANY, in the age of Tacitus, was divided among a number of independent tribes, differing greatly in population and importance. Their country, overspread with forest and morasses, afforded little arable land, and the cultivation of that little was inconstant. Their occupations were principally the chase and pasturage; without cities, or even any contiguous dwellings. They had kings, elected out of particular families; and other chiefs, both for war and administration of justice, whom merit alone recommended to the public choice. But the power of each was greatly limited; and the decision of all leading questions, though subject to the previous deliberation of the chieftains, sprung from the free voice of a popular assembly.* The principal men, however, of a German tribe, fully

* De minoribus rebus principes consultant, de majoribus omnes; ita tamen, ut ea quoque, quorum penes plebem arbitrium est, apud principes pertractentur. Tac. de Mor.

Germ. c. xi. Acidalius and Grotius contend for *prætractentur*; which would be neater, but the same sense appears to be conveyed by the common reading.

Political
state of an-
cient Ger-
many.

FEUDAL
SYSTEM.

Political
state of an-
cient Ger-
many.

CHAP. II. PART I. FEUDAL SYSTEM. partook of that estimation which is always the reward of valour, and commonly of birth. They were surrounded by a cluster of youths, the most gallant and ambitious of the nation, their pride at home, their protection in the field; whose ambition was flattered, or gratitude conciliated, by such presents as a leader of barbarians could confer. These were the institutions of the people who overthrew the empire of Rome, congenial to the spirit of infant societies, and such as travellers have found among nations in the same stage of manners throughout the world. And, although in the lapse of four centuries between the ages of Tacitus and Clovis, some change may have been wrought by long intercourse with the Romans, yet the foundations of their political system were unshaken.

Partition of
lands in con-
quered pro-
vinces.

When these tribes from Germany and the neighbouring countries poured down upon the empire, and began to form permanent settlements, they made a partition of the lands in the conquered provinces between themselves and the original possessors. The Burgundians and Visigoths took two-thirds of their respective conquests, leaving the remainder to the Roman proprietor. Each Burgundian was quartered, under the gentle name of guest, upon one of the former tenants, whose reluctant hospitality confined him to the smaller portion of his estate.* The Vandals in Africa, a more furious race of plunderers, seized all the best lands.† The Lombards of Italy took a third part of the produce. We cannot discover any mention of a similar arrangement in the laws or history of the Franks. It is, however, clear, that they occupied, by public allotment, or individual pillage, a great portion of the lands of France.

Alodial and
Salic lands.

The estates possessed by the Franks, as their property, were termed *alodia*; a word, which is sometimes restricted to such as had descended by inheritance.‡ These were subject to no burthen ex-

* Leg. Burgund. c. 54, 55.

† Procopius de Bello Vandal. l. i. c. 5.

‡ Alodial lands are commonly opposed to beneficiary or feudal; the former being strictly proprietary, while the latter depended upon a superior. In this sense the word is

of continual recurrence in ancient histories, laws, and instruments. It sometimes however bears the sense of *inheritance*; and this seems to be its meaning in the famous 62d chapter of the Salic law; de Alodis. Alodium interdum opponitur comparato, says

cept that of public defence. They passed to all the children equally, or, in their failure, to the nearest kindred.* But of these alodial possessions, there was a particular species, denominated Salic, from which females were expressly excluded. What these lands were, and what was the cause of the exclusion, has been much disputed. No solution seems more probable, than that the ancient lawgivers of the Salian Franks† prohibited females from inheriting the lands assigned to the nation upon its conquest of Gaul, both in compliance with their ancient usages, and in order to secure the military service of every proprietor. But lands subsequently acquired, by purchase or other means, though equally bound to the public defence, were relieved from the severity of this rule, and presumed not to belong to the class of Salic.‡ Hence, in the Ripuary law, the code of a tribe of Franks settled upon the banks of the Rhine, and differing rather in words than in substance from the Salic law, which it serves to illustrate, it is said, that a woman cannot inherit her grandfather's estate, (*hæreditas aviatica*,) distinguishing such family property from what the father might have acquired.§ And Marculfus uses expressions to the same effect. There existed, however, a right of

Du Cange, in *formulis veteribus*. Hence, in the charters of the eleventh century, hereditary fiefs are frequently termed *alodia*. *Recueil des Historiens de France*, t. xi. preface. *Vaissette*, *Hist. de Languedoc*, t. ii. p. 109.

* *Leg. Salicæ*, c. 62.

† The Salic laws appear to have been framed by a Christian prince, and after the conquest of Gaul. They are therefore not older than Clovis. Nor can they be much later, since they were altered by one of his sons.

‡ By the German customs, women, though treated with much respect and delicacy, were not endowed at their marriage. *Dotem non uxor marito, sed maritus uxori confert*. Tacitus, c. 18. A similar principle might debar them of inheritance in fixed possessions. Certain it is, that the exclusion of females was very common among the Teutonic nations. We find it in the laws of the

Thuringians and of the Saxons; both ancient codes, though not free from interpolation. Leibnitz, *Scriptores Rerum Brunswicensium*, t. i. p. 81 and 83. But this usage was repugnant to the principles of Roman law, which the Franks found prevailing in their new country, and to the natural feeling which leads a man to prefer his own descendants to collateral heirs. One of the precedents in Marculfus, (l. ii. form. 12.) calls the exclusion of females, *diuturna et impia consuetudo*. In another, a father addresses his daughter: *Omnibus non habetur incognitum, quod, sicut lex Salica continet, de rebus meis, quod mihi ex alode parentum meorum obvenit, apud germanos tuos filios meos minime in hæreditate succedere poteris*. *Formulæ Marculfo adjectæ*, 49. These precedents are supposed to have been compiled about the latter end of the seventh century.

§ C, 56.

CHAP. II. setting aside the law, and admitting females to succession by testament. In the code too of the Burgundians, the lands of partition (sortes Burgundionum) were restricted to male heirs.* But the Visigoths admitted women on equal terms to the whole inheritance. A controversy has been maintained in France, as to the condition of the Romans, or rather, the provincial inhabitants of Gaul, after the invasion of Clovis. But neither those who have considered the Franks as barbarian conquerors, enslaving the former possessors, nor the Abbé du Bos, in whose theory they appear as allies and friendly inmates, are warranted by historical facts. On the one hand, we find the Romans not only possessed of property, and governed by their own laws, but admitted to the royal favour, and the highest offices;† while the bishops and clergy, who were generally of that nation,‡ grew up continually in popular estimation, in riches, and in temporal sway. Yet it is undeniable, that a marked line was drawn at the outset between the conquerors and the conquered. Though one class of Romans retained estates of their own, yet there was another, called tributary, who seem to have cultivated those of the Franks, and were scarcely raised above the condition of predial servitude. But no distinction can be more unequivocal, than that which was established between the two nations, in the *weregild* or composition for homicide. Capital punishment for murder was contrary to the spirit of the Franks, who, like most barbarous nations, would have thought the loss of one citizen ill repaired by

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PART I.

FEUDAL
SYSTEM.

Roman na-
tives of
Gaul.

* Leg. Burgund. c. 78.

† Daniel conjectures, that Clotaire I. was the first who admitted Romans into the army, which had previously been composed of Franks. From this time we find many in high military command. (Hist. de la Milice Française, t. i. p. 11.) It seems by a passage in Gregory of Tours, by Du Bos, (t. iii. p. 547.) that some Romans affected the barbarian character, by letting their hair grow. If this were generally permitted, it would be a stronger evidence of approximation between the two races, than any that Du Bos has adduced. Montesquieu certainly takes

it for granted that a Roman might change his law, and thus become, to all material intents, a Frank. (Esprit des Loix, l. xxviii. c. 4.) But the passage on which he relies is read differently in the manuscripts.

‡ Some bishops, if we may judge by their barbarous names, and other circumstances, were not Romans. See, for instance, Gregory of Tours, l. vi. c. 9. But no distinction was made among them on this account. The composition for the murder of a bishop was nine hundred solidi; for that of a priest, six hundred of the same coin. Leges Salicæ, c. 58.

that of another. The weregild was paid to the relations of the slain, according to a legal rate. This was fixed by the Salic law at six hundred solidi for an Antrustion of the king; at three hundred for a Roman *conviva regis* (meaning a man of sufficient rank to be admitted to the royal table;) at two hundred for a common Frank; at one hundred for a Roman possessor of lands; and at forty-five for a tributary, or cultivator of another's property. In Burgundy, where religion and length of settlement had introduced different ideas, murder was punished with death. But other personal injuries were compensated, as among the Franks, by a fine, graduated according to the rank and nation of the aggrieved party.*

The barbarous conquerors of Gaul and Italy were guided by notions very different from those of Rome, who had imposed her own laws upon all the subjects of her empire. Adhering in general to their ancient customs without desire of improvement, they left the former inhabitants in unmolested enjoyment of their civil institutions. The Frank was judged by the Salic or the Ripuary code; the Gaul followed that of Theodosius.† This grand distinction of Roman and barbarian, according to the law which each followed, was common to the Frank, Burgundian, and Lombard kingdoms. But the Ostrogoths, whose settlement in the empire and advance in civility of manners were earlier, inclined to desert their old usages, and adopt the Roman jurisprudence.‡ The laws of the Visigoths too were compiled by bishops upon a Roman foundation, and designed as an uniform code, by which both nations should be governed.§ The name of Gaul or Roman was not entirely lost in that

CHAP.
II.
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FEUDAL
SYSTEM.

Distinction
of laws.

* *Leges Salicæ*, c. 43. *Leges Burgundionum*, tit. 2. Murder and robbery were made capital by Childebert, king of Paris; but *Francus* was to be sent for trial in the royal court, *debilior persona in loco pendatur*. Baluz. t. i. p. 17. I am inclined to think, that the word *Francus* does not absolutely refer to the nation of the party; but rather to his rank, as opposed to *debilior persona*; and consequently, that it had already acquired the sense of *freeman*, or *free-born*

(*ingenuus*), which is perhaps its strict meaning. Du Cange, *voc. Francus*, quotes the passage in this sense.

† *Inter Romanos negotia causarum Romanis legibus præcipimus terminari*. Edict. Clotair. l. circ. 560. Baluz. Capitul. t. i. p. 7.

‡ Giannone, l. iii. c. 2.

§ *Hist. de Languedoc*, t. i. p. 242. Heineccius, *Hist. Juris German.* c. i. s. 15.

CHAP. of Frenchman, nor had the separation of their laws ceased, even in
 II. the provinces north of the Loire, till after the time of Charlemagne.*
 PART I. Ultimately, however, the feudal customs of succession, which de-
 FEUDAL SYSTEM. pended upon principles quite remote from those of the civil law, and
 the rights of territorial justice which the barons came to possess, contributed to extirpate the Roman jurisprudence in that part of France. But in the south, from whatever cause, it survived the revolutions of the middle ages; and thus arose a leading division of that kingdom into *pays coutumiers* and *pays du droit écrit*; the former regulated by a vast variety of ancient usages, the latter by the civil law.†

Provincial
 government
 of the
 French em-
 pire.

The kingdom of Clovis was divided into a number of districts,

* Suger, in his life of Louis VI., uses the expression, *lex Salica*. (*Recueil des Historiens*, t. xii. p. 24.) and I have some recollection of having met with the like words in other writings of as modern a date. But I am not convinced that the original Salic code was meant by this phrase, which may have been applied to the local feudal customs. The capitularies of Charlemagne are frequently termed *lex Salica*. Many of these are copied from the Theodosian code.

† This division is very ancient, being found in the edict of Pistes, under Charles the Bald, in 864; where we read, in *illis regionibus, quæ legem Romanam sequuntur*. (*Recueil des Historiens*, t. vii. p. 664.) Montesquieu thinks, that the Roman law fell into disuse in the north of France on account of the superior advantages, particularly in point of composition for offences, annexed to the Salic law; while that of the Visigoths being more equal, the Romans under their government had no inducement to quit their own code. (*Esprit des Loix*, l. xxviii. c. 4.) But it does not appear that the Visigoths had any peculiar code of laws till after their expulsion from the kingdom of Toulouse. They then retained only a small strip of territory in France, about Narbonne and Montpellier.

However, the distinction of men according to their laws was preserved for many centuries, both in France and Italy. A judi-

cial proceeding of the year 918, published by the historians of Languedoc, (t. ii. Appendix, p. 56.) proves that the Roman, Gothic, and Salic codes were then kept perfectly separate, and that there were distinct judges for the three nations. The Gothic law is referred to as an existing authority in a charter of 1070. *Idem*, t. iii. p. 274. De Marca, *Marca Hispanica*, p. 1159. Every man, both in France, (*Hist. de Languedoc*, t. ii. Appendix, p. 69.) and in Italy, seems to have had the right of choosing by what law he would be governed. *Volumus*, says Lothaire I. in 824, *ut cunctus populus Romanus interrogetur, quali lege vult vivere, ut tali, professi fuerint vivere velle, vivant. Quod si offensionem contra eandem legem fecerint, eidem legi quam profitentur, subjacebunt*. Women upon marriage usually changed their law, and adopted that of their husband, returning to their own in widowhood; but to this there are exceptions. Charters are found, as late as the end of the twelfth century, with the expression, *qui professus sum lege Longobardicâ [aut] lege Salicâ [aut] lege Alemannorum vivere*. But soon afterwards the distinctions were entirely lost, partly through the prevalence of the Roman law, and partly through the multitude of local statutes in the Italian cities. Muratori, *Antiquitates Italiae*, Dissertat. 22. Du Cange, v. *Lex*. Heineccius, *Historia Juris Germanici*, c. ii. s. 51.

each under the government of a count, a name familiar to Roman subjects, by which they rendered the *graf* of the Germans. The authority of this officer extended over all the inhabitants, as well Franks as natives. It was his duty to administer justice, to preserve tranquillity, to collect the royal revenues, and to lead, when required, the free proprietors into the field.* The title of a duke implied a higher dignity, and commonly gave authority over several counties.† These offices were originally conferred during pleasure; but the claim of a son to succeed his father would often be found too plausible or too formidable to be rejected, and it is highly probable that, even under the Merovingian kings, these provincial governors had laid the foundations of that independence which was destined to change the countenance of Europe.‡ The Lombard

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PART I.
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SYSTEM.

* Marculfi Formulæ, l. i. 32.

† Houard, the learned translator of Littleton, (*Anciennes Loix des François*, t. i. p. 6.) supposes these titles to have been applied indifferently. But the contrary is easily proved, and especially by a line of Fortunatus, quoted by Du Cange and others;

Qui modo dat Comitibus, det tibi jura Ducis.

The cause of M. Houard's error may perhaps be worth noticing. In the above cited form of Marculfus, a *precedent* (in law language) is given for the appointment of a duke, count, or patrician. The material part being the same, it was only necessary to fill up the blanks, as we should call it, by inserting the proper designation of office. It is expressed therefore; *actionem comitatus, ducatus, aut patriciatus in pago illo, quam antecessor tuus ille usque nunc visus est egisse, tibi agendum regendumque commisimus*. Montesquieu has fallen into a similar mistake, (l. xxx. c. 16.) forgetting for a moment, like Houard, that these instruments in Marculfus were not records of real transactions, but general forms for future occasion.

The office of patrician is rather more obscure. It seems to have nearly corresponded with what was afterwards called mayor of the palace, and to have implied the command of all the royal forces. Such at least were

Celsus, and his successor Mummolus under Gontran. This is probable too from analogy. The patrician was the highest officer in the Roman empire, from the time of Constantine, and we know how much the Franks themselves, and still more their Gaulish subjects, affected to imitate the style of the imperial court.

‡ That the offices of count and duke were originally but temporary, may be inferred from several passages in Gregory of Tours; as l. v. c. 37. l. viii. c. 18. But it seems by the laws of the Alemanni, c. 35. that the hereditary succession of their dukes was tolerably established at the beginning of the seventh century, when their code was promulgated. The Bavarians chose their own dukes out of one family, as is declared in their laws; tit. ii. c. i. and c. 20. (Lindebrog, *Codex Legum antiquarum*.) This the emperor Henry II. confirms in Ditmar; *Nonne scitis, (he says,) Bajuarios ab initio ducem eligendi liberam habere potestatem?* (Schmidt, *Hist. des Allemands*, t. ii. p. 404.) Indeed the consent of these German provincial nations, if I may use the expression, seems to have been always required, as in an independent monarchy. Ditmar, a chronicler of the tenth century, says, that Echard was made duke of Thuringia *totius populi consensu*. Pfeffel, *Abrégé Chronologique*, t. i. p. 184.

CHAP. dukes, those especially of Spoleto and Benevento, acquired very early an hereditary right of governing their provinces, and that kingdom became a sort of federal aristocracy.*

II.
PART I.

FEUDAL
SYSTEM.

Succession
to the
French mo-
narchy.

The throne of France was always filled by the royal house of Meroveus. However complete we may imagine the elective rights of the Franks, it is clear that a fundamental law restrained them to this family. Such indeed had been the monarchy of their ancestors the Germans; such long continued to be those of Spain, of England, and perhaps of all European nations. The reigning family was immutable; but at every vacancy the heir awaited the confirmation of a popular election, whether that were a substantial privilege, or a mere ceremony. Exceptions, however, to the lineal succession are rare in the history of any country, unless where an infant heir was thought unfit to rule a nation of freeman. But in fact it is vain to expect a system of constitutional laws rigidly observed in ages of anarchy and ignorance. Those antiquaries who have maintained the most opposite theories upon such points are seldom in want of particular instances to support their respective conclusions.†

Limited au-
thority of
Clovis—
Vase of
Soissons.

Clovis was a leader of barbarians, who respected his valour, and the rank which they had given him, but were incapable of servile feelings, and jealous of their common as well as individual rights. In order to appreciate the power which he possessed, we have only to look at the well-known story of the vase of Soissons. When the plunder taken in Clovis's invasion of Gaul was set out in this place for distribution, he begged for himself a precious vessel, belonging

With respect to France properly so called, or the kingdoms of Neustria and Burgundy, it may be less easy to prove the existence of hereditary offices under the Merovingians. But the feebleness of their government makes it probable, that so natural a symptom of disorganization had not failed to ensue. The Helvetian counts appear to have been nearly independent, as early as this period. (Planta's Hist. of Swisserland, chap. i.)

* Giannone, l. iv.

† Hottoman (Franco-Gallia, c. vi.) and

Boulainvilliers (Etat de la France) seem to consider the crown as absolutely elective. The Abbé Vertot (Mémoires de l'Acad. des Inscriptions, t. iv.) maintains a limited right of election within the reigning family. M. de Foncemagne (t. vi. and viii. of the same collection) asserts a strict hereditary descent. Neither perhaps sufficiently distinguishes acts of violence from those of right, nor observes the changes in the French constitution between Clovis and Childeric III.

to the church of Rheims. The army having expressed their willingness to consent: "You shall have nothing here, exclaimed a soldier, striking it with his battle-axe, but what falls to your share by lot." Clovis took the vessel, without marking any resentment; but found an opportunity, next year, of revenging himself by the death of the soldier. It is impossible to resist the inference which is supplied by this story. The whole behaviour of Clovis is that of a barbarian chief, not daring to withdraw any thing from the rapacity, or to chastise the rudeness of his followers.

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But if such was the liberty of the Franks, when they first became conquerors of Gaul, we have good reason to believe, that they did not long preserve it. A people not very numerous spread over the spacious provinces of Gaul, wherever lands were assigned to, or seized by them.* It became a burthen to attend those general assemblies of the nation, which were annually convened in the month of March, to deliberate upon public business, as well as to exhibit a muster of military strength. After some time, it appears that these meetings drew together only the bishops, and those invested with civil offices.† The ancient inhabitants of Gaul, having little notion of political liberty, were unlikely to resist the most tyrannical conduct. Many of them became officers of state, and advisers of the sovereign, whose ingenuity might teach maxims of despotism unknown in the forests of Germany. We shall scarcely wrong the bishops by suspecting them of more pliable courtliness than was natural to the long-haired warriors of Clovis.‡ Yet it is probable, that some of the Franks were themselves instrumental in this change of their government. The court of the Merovingian kings was

Power of
the kings in-
creases.

* Du Bos, Hist. Critique, t. ii. p. 301. maintains that Clovis had not more than 3000 or 4000 Franks in his army, for which he produces some, though not very ancient, authorities. The smallness of the number of Salians may account for our finding no mention of the partitions made in their favour. See, however, Du Bos, t. iii. p. 466.

† Du Bos, t. iii. p. 327. Mably, Observ. sur l'Histoire de France, l. i. c. 3.

‡ Gregory of Tours, throughout his history, talks of the royal power in the tone of Louis XIV.'s court. If we were obliged to believe all we read, even the vase of Soissons would bear witness to the obedience of the Franks.

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crowded with followers, who have been plausibly derived from those of the German chiefs described by Tacitus; men, forming a distinct and elevated class in the state, and known by the titles of Fideles, Leudes, or Antrustiones. They took an oath of fidelity to the king, upon their admission into that rank, and were commonly remunerated with gifts of land. Under different appellations we find, as some antiquaries think, this class of courtiers in the early records of Lombardy and England. The general name of Vassals (from *Gwas*, a Celtic word for a servant) is applied to them in every country.* By the assistance of these faithful supporters, it has been thought, that the regal authority of Clovis's successors was insured.† However this may be, the annals of his more immediate descendants exhibit a course of oppression, not merely displayed, as will often happen among uncivilized people, though free, in acts of private injustice, but in such general tyranny, as is incompatible with the existence of any real checks upon the sovereign.‡

Degeneracy
of the royal
family.
Mayors of
the palace.

But before the middle of the seventh century, the kings of this line had fallen into that contemptible state, which has been described

* The Gasindi of Italy, and the Anglo-Saxon royal Thane appear to correspond, more or less, to the Antrustions of France. The word Thane, however, was used in a very extensive sense, and comprehended all free proprietors of land. That of *Leudes* seems to imply only subjection, and is frequently applied to the whole body of a nation, as well as, in a stricter sense, to the king's personal vassals. This name they did not acquire, originally, by possessing benefices; but rather, by being vassals, or servants, became the object of beneficiary donations. In one of Marculfus's precedents, l. i. f. 18. we have the form by which an Antrustion was created. See Du Cange under these several words, and Muratori's thirteenth dissertation on Italian Antiquities. The Gardingi sometimes mentioned in the laws of the Visigoths do not appear to be of the same description.

† Boantus **** vallatus in domo suâ, ab hominibus regis interfectus est. Greg.

Tur. l. viii. c. 11. A few spirited retainers were sufficient to execute the mandates of arbitrary power among a barbarous, disunited people.

‡ The proofs of this may be found in almost every page of Gregory: among other places, see l. iv. c. 1.; l. vi. c. 29.; l. ix. c. 30. In all edicts proceeding from the first kings, they are careful to express the consent of their subjects. Clovis's language runs—*Populus noster petit*. His son Childebert expresses himself: *unà cum nostris optimatibus pertractavimus—convenit unà cum leudis nostris*. But in the famous treaty of Andely, A.D. 587, no national assent seems to have been asked or given to its provisions, which were very important. And an edict of one of the Clotaires (it is uncertain whether the first or second of that name, though Montesquieu has given good reasons for the latter) assumes a more magisterial tone, without any mention of the Leudes.

in the last chapter. The mayors of the palace, who, from mere officers of the court, had now become masters of the kingdom, were elected by the Franks, not indeed the whole body of that nation, but the provincial governors, and considerable proprietors of land.* Some inequality there probably existed from the beginning in the partition of estates, and this had been greatly increased by the common changes of property, by the rapine of those savage times, and by royal munificence. Thus arose that landed aristocracy, which became the most striking feature in the political system of Europe during many centuries, and is in fact its great distinction, both from the despotism of Asia, and the equality of republican governments.

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There has been some dispute about the origin of nobility in France, which might perhaps be settled, or at least better understood, by fixing our conception of the term. In our modern acceptation, it is usually taken to imply certain distinctive privileges in the political order, inherent in the blood of the possessor, and consequently not transferable like those which property confers. Limited to this sense, nobility, I conceive, was unknown to the conquerors of Gaul till long after the downfall of the Roman empire. They felt, no doubt, the common prejudice of mankind in favour of those whose ancestry is conspicuous, when compared with persons of obscure

Nobility.

* The revolution which ruined Brunehaut was brought about by the defection of her chief nobles, especially Warnachar, mayor of Austrasia. Upon Clotaire II.'s victory over her, he was compelled to reward these adherents at the expense of the monarchy. Warnachar was made mayor of Burgundy with an oath from the king never to dispossess him. (Fredegarius, c. 42.) In 626, the nobility of Burgundy declined to elect a mayor, which seems to have been considered as their right. From this time, nothing was done without the consent of the aristocracy. Unless we ascribe all to the different ways of thinking in Gregory and Fredegarius, the one a Roman bishop, the other a Frank or Burgundian, the government was altogether changed.

It might even be surmised, that the crown was considered as more elective than before. The author of *Gesta Regum Francorum*, an old chronicler who lived in those times, changes his form of expressing a king's accession from that of Clotaire II. Of the earlier kings he says only, *regnum recepit*. But of Clotaire, *Franci quoque prædictum Clotairium regem parvulum supra se in regnum statuerunt*. Again, of the accession of Dagobert I.: *Austrasii Franci superiores congregati in unum, Dagobertum supra se in regnum statuunt*. In another place, *Decedente præfato rege Clodoveo, Franci Clotairium seniore puerum ex tribus sibi regem statuerunt*. Several other instances might be quoted.

CHAP. birth. This is the primary meaning of nobility, and perfectly distinguishable from the possession of exclusive civil rights. Those who are acquainted with the constitution of the Roman republic, will recollect an instance of the difference between these two species of hereditary distinction, in the *patricii* and the *nobiles*. Though I do not think that the tribes of German origin paid so much regard to genealogy as some Scandinavian and Celtic nations; (else the beginnings of the greatest houses would not have been so enveloped in doubt as we find them;) there are abundant traces of the respect in which families of known antiquity were held among them.*

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But the essential distinction of ranks in France, perhaps also in Spain and Lombardy, was founded upon the possession of land, or upon civil employment. The aristocracy of wealth preceded that of birth, which indeed is still chiefly dependent upon the other for its importance. A Frank of large estate was styled a noble; if he wasted or was despoiled of his wealth, his descendants fell into the mass of the people, and the new possessor became noble in his stead. In these early ages, property did not very frequently change hands, and desert the families who had long possessed it. They were noble by descent, therefore, because they were rich by the same means. Wealth gave them power, and power gave them pre-eminence. But no distinction was made by the Salic or Lombard codes in the composition for homicide, the great test of political station, except in favour of the king's vassals. It seems, however, by some of the barbaric codes, those namely of the Burgundians,

* The antiquity of French nobility is maintained temperately by Schmidt, *Hist. des Allemands*, t. i. p. 361. and with acrimony by Montesquieu, *Esprit des Loix*, l. xxx. c. 25. Neither of them proves any more than I have admitted. The expression of Ludovicus Pius to his freedman; *Rex fecit te liberum, non nobilem; quod impossibile est post libertatem*, is very intelligible, without imagining a privileged class. Of the practical regard paid to birth,

indeed, there are many proofs. It seems to have been a recommendation in the choice of bishops. (*Marculfi Formulæ*, l. i. c. 4. *cum notis Bignonii*, in *Baluzii Capitularibus*.) It was probably much considered in conferring dignities. Fredegarius says of Protadius, mayor of the palace to Brunehaut, *Quoscunque genere nobiles reperiebat, totos humiliare conabatur, ut nullus reperiretur, qui gradum, quem arripuerat, potuisset assumere.*

Visigoths, Saxons, and the English colony of the latter nation,* that the free men were ranged by them into two or three classes, and a difference made in the price at which their lives were valued; so that there certainly existed the elements of aristocratic privileges, if we cannot in strictness admit their completion at so early a period. The Antrustions of the kings of the Franks were also noble, and a composition was paid for their murder, treble of that for an ordinary citizen; but this was a personal, not an hereditary distinction. A link was wanting to connect their eminent privileges with their posterity; and this link was to be supplied by hereditary benefices.

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Besides the lands distributed among the nation, others were reserved to the crown, partly for the support of its dignity, and partly for the exercise of its munificence. These were called fiscal lands; they were dispersed over different parts of the kingdom, and formed the most regular source of revenue.† But the greater portion of them were granted out to favoured subjects, under the name of benefices, the nature of which is one of the most important points in the policy of these ages. Benefices were, it is probable, most frequently bestowed upon the professed courtiers, the Antrustiones or Leudes, and upon the provincial governors. It by no means appears, that any conditions of military service were expressly annexed to these grants: but it may justly be presumed that such favours were not conferred without an expectation of some return; and we read both in law and history, that beneficiary tenants were more closely connected with the crown than mere alodial proprietors. Whoever possessed a benefice was bound to serve his sovereign in the field. But of alodial proprietors only the owner of three mansi was called

Fiscal lands.

Benefices.

* Leg. Burgund. tit. 26. Leg. Visigoth. l. ii. t. 2. c. iv. (in Lindebrog). Du Cange voc. Adalingus, Nobilis. Wilkins, Leg. Angl. Sax. passim. I think it cannot be denied, that nobility, founded either upon birth or property, and distinguished from mere personal freedom, entered into the Anglo-Saxon system. Thus the *eorl* and

ceorl are opposed to each other, like the noble and roturier in France.

† The demesne lands of the crown are continually mentioned in the early writers; the kings, in journeying to different parts of their dominions, took up their abode in them. Charlemagne is very full in his directions as to their management. Capitularia, A. D. 797, and alibi.

CHAP. upon for personal service. Where there were three possessors of single mansi, one went to the army, and the others contributed to his equipment.* Such at least were the regulations of Charlemagne, whom I cannot believe, with Mably, to have relaxed the obligations of military attendance. After the peace of Coblentz in 860, Charles the Bald restored all alodial property belonging to his subjects who had taken part against him, but not his own beneficiary grants, which they were considered as having forfeited.

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Their extent.

Most of those who have written upon the feudal system, lay it down that benefices were originally precarious, and revoked at pleasure by the sovereign; that they were afterwards granted for life; and at a subsequent period became hereditary. No satisfactory proof, however, appears to have been brought of the first stage in this progress.† At least, I am not convinced, that benefi-

* Capitul. Car. Mag. ann. 807 and 812. I cannot define the precise area of a mansus. It consisted, according to Du Cange, of twelve jugera; but what he meant by a juger I know not. The ancient Roman juger was about five eighths of an acre; the Parisian arpent was a fourth more than one. This would make a difference as two to one.

† The position, which I have taken upon me to controvert, is laid down in almost every writer on the feudal system. Besides Sir James Craig, Spelman, and other older authors, Houard, in his *Anciennes Loix des François*, t. i. p. 5. and the editors of the *Benedictine collection*, t. xi. p. 163. take the same point for granted. Mably, *Observations sur l'Histoire de France*, l. i. c. 3. calls it, une vérité que M. de Montesquieu a très bien prouvée. And Robertson affirms with unusual positiveness: "These benefices were granted originally only during pleasure. No circumstance relating to the customs of the middle ages is better ascertained than this; and innumerable proofs of it might be added to those produced in *L'Esprit des Loix*, and by Du Cange." *Hist. Charles V.* vol. i. not. 8.

These testimonies, which Robertson has not chosen to bring forward, we cannot conjec-

ture; nor is it easy to comprehend by what felicity he has discovered, in the penury of historical records during the sixth and seventh centuries, innumerable proofs of an usage which, by the confession of all, did not exist at any later period. But as the authorities quoted by Montesquieu have appeared conclusive both to Mably and Robertson, it may be proper to examine them separately. The following is the passage in *L'Esprit des Loix*, on which they rely:

On ne peut pas douter que d'abord les fiefs ne fussent amovibles. On voit, dans Grégoire de Tours, que l'on ôte à Sunégisile et à Galloman tout ce qu'ils tenoient du fisc, et qu'on ne leur laisse que ce qu'ils avoient en propriété. Gontran, élevant au trône son neveu Childebert, eut une conférence secrète avec lui, et lui indiqua ceux à qui il devoit donner des fiefs, et ceux à qui il devoit les ôter. Dans une formule de Marculfe, le roi donne en échange, non seulement des bénéfices que son fisc tenoit, mais encore ceux qu'un autre avoit tenus. Le roi des Lombards oppose les bénéfices à la propriété. Les historiens, les formules, les codes des différens peuples barbares, tous les monumens qui nous restent, sont unanimes. Enfin, ceux qui ont écrit le Livre

ciary grants were ever considered as resumable at pleasure, unless where some delinquency could be imputed to the vassal. It is possible, though I am not aware of any documents which prove it, that benefices may, in some instances, have been granted for a term of

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des Fiefs, nous apprennent que d'abord les seigneurs purent les ôter à leur volonté, qu'ensuite ils les assurèrent pour un an, et après les donnèrent pour toujours. l. xxx. c. 16.

The first of Montesquieu's authorities is from Gregory of Tours. l. ix. c. 38. Sunegisilus and Gallomagnus, two courtiers of Childebert, having been accused of a treasonable conspiracy, fled to sanctuary, and refused to stand their trial. Their beneficiary lands were upon this very justly taken away by a judicial sentence. What argument can be drawn from a case of forfeiture for treason or outlawry, that benefices were granted only during pleasure? 2. Gontran is said by Gregory to have advised his nephew Childebert, quos honoraret muneribus, quos ab honore depelleret. l. vii. 33. But *honor* is more commonly used in the earliest writers for an office of dignity, than for a landed estate; and even were the word to bear in this place the latter meaning, we could not fairly depend on an authority, drawn from times of peculiar tyranny and civil convulsion. I am not contending that men were secure in their beneficiary, since they certainly were not so in their alodial estates: the sole question is, as to the right they were supposed to possess in respect of them. 3. In the precedent of Marculfus, quoted by Montesquieu, the king is supposed to grant lands, which some other person had lately held. But this is meant as a designation of the premises, and would be perfectly applicable, though the late possessor were dead. 4. It is certainly true, that the Lombard laws, (that is, laws enacted by the successors of Charlemagne in Lombardy,) and the general tenor of ancient records, with a few exceptions, oppose benefices to propriety: but it does not follow that the former were revocable at pleasure. This opposition of alodial to feudal estates subsists at present, though the tenure of the latter is any thing rather than

precarious. 5. As to the Libri Feudorum, which are a compilation by some Milanese lawyers in the twelfth century, they cannot be deemed of much authority for the earlier history of the feudal system in France. There is certainly reason to think, that even in the eleventh century, the tenure of fiefs in some parts of Lombardy was rather precarious; but whether this were by any other law than that of the stronger, it would be hard to determine.

Du Cange, to whom Robertson also refers, gives this definition of a benefice: *prædium fiscale, quod a rege vel principe, vel ab alio quolibet ad vitam viro nobili utendum conceditur*. In a subsequent place, indeed, he says: *nec tantum erant ad vitam, sed pro libitu auferebantur*. For this he only cites a letter of the bishops to Louis the Debonair: *Ecclesiæ nobis a Deo commissæ non talia sunt beneficia, et hujusmodi regis proprietas, ut pro libitu suo inconsultè illas possit dare, aut auferre*. But how slight a foundation does this afford for the inference, that lay-benefices were actually liable to be resumed at pleasure? Suppose even this to be a necessary implication in the argument of those bishops, is it certain that they stated the law of their country with accuracy? Do we not find greater errors than this every day in men's speech and writings, relative to points with which they are not immediately concerned? In fact, there is no manner of doubt, that benefices were granted not only for life, but as inheritances, in the reign of Louis. In the next sentence Du Cange adds a qualification, which puts an end to the controversy, so far as his authority is concerned: *Non temere tamen, nec sine legali judicio auferebantur*. That those two sentences contradict each other, we cannot fail to determine; the latter, in my opinion, is the more correct position.

CHAP. years, since even fiefs, in much later times, were occasionally of no greater extent. Their ordinary duration, however, was at least the life of the possessor, after which they reverted to the fisc.* Nor can I agree with those, who deny the existence of hereditary benefices under the first race of French kings. The codes of the Burgundians, and of the Visigoths, which advert to them, are, by analogy, witnesses to the contrary.† The precedents given in the forms of Marculfus (about 660) for the grant of a benefice, contain very full terms, extending it to the heirs of the beneficiary.‡ And Mably has plausibly inferred the perpetuity of benefices, at least in some instances, from the language of the treaty at Andely in 585, and of an edict of Clotaire II. some years later.§ We can hardly doubt at least that children would put in a very strong claim to what their father had enjoyed; and the weakness of the crown in the seventh century must have rendered it difficult to reclaim its property.

Sub-infeudation,

A natural consequence of hereditary benefices was that those

* The following passage from Gregory of Tours seems to prove, that although sons were occasionally permitted to succeed their fathers, an indulgence which easily grew up into a right, the crown had, in his time, an unquestionable reversion after the death of its original beneficiary. Hoc tempore et Wandelinus, nutritor Childeberti regis, obiit; sed in locum ejus nullus est subrogatus, eo quod regina mater curam velit propriam habere de filio. *Quæcunque de fisco meruit, fisci juribus sunt relata.* Obiit his diebus Bodegesilus dux plenus dierum; sed nihil de facultate ejus filiis minutum est. l. viii. c. 22. Gregory's work, however, does not go farther than 595.

† Leges Burgundionum, tit. i. Leges Wisigoth. l. v. tit. 2.

‡ Marculf. form. xii. and xiv. f. 1. This precedent was in use down to the eleventh century; its expressions recur in almost every charter. The earliest instance I have seen of an actual grant to a private person, is of Charlemagne to one John, in 795. Baluzii Capitularia, t. ii. p. 1400.

§ Quicquid antefati reges ecclesiis aut fidelibus suis contulerunt, aut adhuc conferre cum justitiâ Deo propitiante voluerint, stabiliter conservetur; et quicquid unicuique fidelium in utriusque regno per legem et justitiam redhibetur, nullum ei præjudicium ponatur, sed liceat res debitas possidere atque recipere. Et si aliquid unicuique per interregna sine culpâ sublatum est, audientiâ habitâ restauretur. Et de eo quod per munificentias præcedentium regum unusquisque usque ad transitum gloriosæ memoriæ domini Chlothacharii regis possedit, cum securitate possideat; et quod exinde fidelibus personis ablatum est, de præsentî recipiat. Fædus Andeliacum, in Gregor. Turon. l. ix. c. 20.

Quæcunque ecclesiæ vel clericis vel quibuslibet personis a gloriosæ memoriæ præfatis principibus munificentia largitate collatæ sunt, omni firmitate perdurent. Edict. Chlotachar. I. vel potius II. in Recueil des Historiens, t. iv. p. 116.

who possessed them carved out portions to be held of themselves by a similar tenure. Abundant proofs of this custom, best known by the name of sub-infeudation, occur even in the capitularies of Pepin and Charlemagne. At a later period it became universal; and what had begun perhaps through ambition or pride was at last dictated by necessity. In that dissolution of all law which ensued after the death of Charlemagne, the powerful leaders, constantly engaged in domestic warfare, placed their chief dependence upon men whom they attached by gratitude, and bound by strong conditions. The oath of fidelity which they had taken, the homage which they had paid to the sovereign, they exacted from their own vassals. To render military service became the essential obligation which the tenant of a benefice undertook; and out of those ancient grants, now become for the most part hereditary, there grew up in the tenth century, both in name and reality, the system of feudal tenures.*

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This revolution was accompanied by another still more important. The provincial governors, the dukes and counts, to whom we may add the marquisses or margraves, intrusted with the custody of the frontiers, had taken the lead in all public measures after the decline of the Merovingian kings. Charlemagne, duly jealous of their ascendancy, checked it by suffering the duchies to expire without renewal, by granting very few counties hereditarily, by removing the administration of justice from the hands of the counts into those of his own itinerant judges, and, if we are not deceived in his policy, by elevating the ecclesiastical order as a counterpoise to that of the nobility. Even in his time, the faults of the counts are the constant theme of the capitularies; their dissipation and neglect

Usurpation
of provincial
governors.

* Somner says, that he has not found the word feudum anterior to the year 1000; and Muratori, a still greater authority, doubts whether it was used so early. I have however observed the words feum and fevum, which are manifestly corruptions of feudum, in several charters about 960. Vaissette, Hist. de Languedoc, t. ii. Appendix, p.

107. 128. and alibi. Some of these fiefs appear not to have been hereditary. But, independently of positive instances, can it be doubted that some word of barbarous original must have answered, in the vernacular languages, to the Latin beneficium? See Du Cange, v. Feudum.

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of duty, their oppression of the poorer proprietors, and their artful attempts to appropriate the crown lands situated within their territory.* If Charlemagne was unable to redress these evils, how much must they have increased under his posterity! That great prince seldom gave more than one county to the same person; and as they were generally of moderate size, co-extensive with episcopal dioceses, there was less danger, if this policy had been followed, of their becoming independent.† But Louis the Debonair, and, in a still greater degree, Charles the Bald, allowed several counties to be enjoyed by the same person. The possessors constantly aimed at acquiring private estates within the limits of their charge, and thus both rendered themselves formidable, and assumed a kind of patrimonial right to their dignities. By a capitulary of Charles the Bald, A.D. 877, the succession of a son to his father's county appears to be recognized as a known usage.‡ In the next century there followed an entire prostration of the royal authority, and the counts usurped their governments as little sovereignties, with the domains and all regalian rights, subject only to the feudal superiority of the king.§ They now added the name of the county to their own, and their wives took the appellation of countess.|| In Italy, the independence of the dukes was still more complete; and although Otho the Great and his descendants kept a stricter rein over those of Germany, yet we find the great fiefs of their empire throughout the tenth century, granted almost invariably to the male and even female heirs of the last possessor.

* Capitularia Car. Mag. et Lud. Pii. passim. Schmidt, Hist. des Allemands, t. ii. p. 158. Gaillard, Vie de Charlem. t. iii. p. 118.

† Vaissette, Hist. de Languedoc, t. i. p. 587. 700. and not. 87.

‡ Baluzii Capitularia, t. ii. p. 263 and 269. This is a questionable point, and most French antiquaries consider this famous capitulary as the foundation of an hereditary right in counties. I am inclined to think, that there was at least a practice

of succession, which is implied and guaranteed by this provision.

§ It appears, by the record of a process in 918, that the counts of Toulouse had already so far usurped the rights of their sovereign, as to claim an estate, on the ground of its being a royal benefice. Hist. de Languedoc, t. ii. Appen. p. 56.

|| Vaissette, Hist. de Languedoc, t. i. p. 588, and infra. t. ii. p. 38. 109. and Appendix, p. 56.

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Change of alodial into feudal tenures.

Mean while the alodial proprietors, who had hitherto formed the strength of the state, fell into a much worse condition. They were exposed to the rapacity of the counts, who, whether as magistrates and governors, or as overbearing lords, had it always in their power to harass them. Every district was exposed to continual hostilities; sometimes from a foreign enemy, more often from the owners of castles and fastnesses, which in the tenth century, under pretence of resisting the Normans and Hungarians, served the purposes of private war. Against such a system of rapine, the military compact of lord and vassal was the only effectual shield; its essence was the reciprocity of service and protection. But an insulated alodialist had no support: his fortunes were strangely changed, since he claimed, at least in right, a share in the legislation of his country, and could compare with pride his patrimonial fields with the temporary benefices of the crown. Without law to redress his injuries, without the royal power to support his right, he had no course left, but to compromise with oppression, and subject himself, in return for protection, to a feudal lord. During the tenth and eleventh centuries it appears that alodial lands in France had chiefly become feudal; that is, they had been surrendered by their proprietors, and received back again upon the feudal conditions; or more frequently, perhaps, the owner had been compelled to acknowledge himself the *man* or vassal of a suzerain, and thus to confess an original grant which had never existed.* Changes of the same nature, though not perhaps so extensive, or so distinctly to be traced, took place in

* Hist. de Languedoc, t. ii. p. 109. It must be confessed, that there do not occur so many specific instances of this conversion of alodial tenure into feudal, as might be expected, in order to warrant the supposition in the text. Several records however are quoted by Robertson, Hist. Charles V. note 8; and others may be found in diplomatic collections. A precedent for surrendering alodial property to the king, and receiving it back as his benefice, appears even in Marculfus, l. i. form. 13. The county of Co-

minges, between the Pyrenees, Toulouse, and Bigorre, was alodial till 1244, when it was put under the feudal protection of the count of Toulouse. It devolved by escheat to the crown in 1443. Villaret, t. xv. p. 346.

In many early charters, the king confirms the possession even of alodial property, for greater security in lawless times; and in those of the tenth and eleventh centuries, the word alodium is continually used for a feud, or hereditary benefice, which renders this subject still more obscure.

CHAP. Italy and Germany. Yet it would be inaccurate to assert, that the prevalence of the feudal system has been unlimited; in a great part of France, alodial tenures always subsisted; and many estates in the empire were of the same description.*

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FEUDAL
SYSTEM.

Custom of
personal
commenda-
tion.

There are, however, vestiges of a very universal custom distinguishable from the feudal tenure of land, though so analogous to it, that it seems to have nearly escaped the notice of antiquaries. From this silence of other writers, and the great obscurity of the subject, I am almost afraid to notice what several passages in ancient laws and instruments concur to prove, that, besides the relation established between lord and vassal by beneficiary grants, there was another more personal, and more closely resembling that of patron and client in the Roman republic. This was usually called *commendation*; and appears to have been founded on two very general principles, both of which the distracted state of society inculcated. The weak needed the protection of the powerful; and the government needed some security for public order. Even before the invasion of the Franks, Salvian, a writer of the fifth century, mentions the custom of obtaining the protection of the great by money, and blames their rapacity, though he allows the natural reasonableness of the practice.† The disadvantageous condition of the less powerful freemen, which ended in the servitude of one part, and in the feudal vassalage of another, led a few, who fortunately still preserved their alodial property, to insure its defence by a stipulated payment of money. Such payments, called *Salvamenta*, may be traced in

* The maxim, *Nulle terre sans seigneur*, was so far from being universally received in France, that in almost all the southern provinces, or *pays du droit écrit*, lands were presumed to be alodial, unless the contrary was shewn, or, as it was called, *franc-aleux sans titre*. The parliaments however seem latterly to have inclined against this presumption, and have thrown the burthen of proof on the party claiming alodality. For this see Denisart, *Dictionnaire des Décisions*, art. *Franc-aleu*. And the famous maxim

of the Chancellor Duprat, *nulle terre sans seigneur*, was true, as I learn from the dictionary of Houard, with respect to jurisdiction, though false as to tenure; alodial lands insulated (*enclavés*) within the fief of a lord, being subject to his territorial justice. *Diction. de Houard*, art. *Aleu*.

In Germany, according to Du Cange, *voc. Baro*, there is a distinction between *Barones*, and *Semper-Barones*; the latter holding their lands alodially.

† Du Cange, *v. Salvamentum*.

extant charters, chiefly indeed of monasteries.* In the case of private persons, it may be presumed that this voluntary contract was frequently changed by the stronger party into a perfect feudal dependence. From this, however, as I imagine, it properly differed in being capable of dissolution at the inferior's pleasure, without incurring a forfeiture, as well as in having no relation to land. Homage, however, seems to have been incident to commendation, as well as to vassalage. Military service was sometimes the condition of this engagement. It was the law of France, so late at least as the commencement of the third race of kings, that no man could take a part in private wars, except in defence of his own lord. This we learn from an historian about the end of the tenth century, who relates that one Erminfrid, having been released from his homage to Count Burchard, on ceding the fief he had held of him to a monastery, renewed the ceremony on a war breaking out between Burchard and another nobleman, wherein he was desirous to give assistance; since, the author observes, it is not, nor has been the practice in France, for any man to be concerned in war, except in the presence, or by the command of his lord.† Indeed there is reason to infer, from the Capitularies of Charles the Bald, that every man was bound to attach himself to some lord, though it was the privilege of a free-man to chuse his own superior.‡ And this is strongly supported by

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* Du Cange, v. Salvamentum.

† Recueil des Historiens, t. x. p. 355.

‡ Unusquisque liber homo, post mortem domini sui, licentiam habeat se commendandi inter hæc tria regna ad quemcunque voluerit. Similiter et ille qui nondum alicui commendatus est. Baluzii Capitularia, t. i. p. 443. A. D. 806. Volumus etiam ut unusquisque liber homo in nostro regno seniores qualem voluerit in nobis et in nostris fidelibus recipiat. Capit. Car. Calvi. A. D. 877. Et volumus ut cujuscunque nostrum homo, in cujuscunque regno sit, cum seniore suo in hostem, vel aliis suis utilitatibus pergat. Ibid. See too Baluze, t. i. p. 536, 537.

By the Establishments of St. Louis, c. 87. every stranger coming to settle within a barony was to acknowledge the baron as lord within a year and a day, or pay a fine. In

some places, he even became the serf or vassal of the lord. Ordonnances des Rois, p. 187. Upon this jealousy of unknown settlers, which pervades the policy of the middle ages, was founded the droit d'aubaine, or right to their moveables after their decease. See Preface to Ordonnances des Rois, t. i. p. 15.

The article Commendatio in du Cange's Glossary furnishes some hints upon this subject, which however that author does not seem to have fully apprehended. Carpentier, in his Supplement to the Glossary, under the word Vassaticum, gives the clearest notice of it that I have any where found. Since writing the above note, I have found the subject touched by M. de Montlosier, Hist. de la Monarchie Française, t. i. p. 354.

CHAP. II. the analogy of our Anglo-Saxon laws, where it is frequently repeated, that no man should continue without a lord. There are too, as it seems to me, a great number of passages in Domesday-
PART I. Book, which confirm this distinction between personal commendation and the beneficiary tenure of land. Perhaps I may be thought to dwell too prolixly on this obscure custom; but as it tends to illustrate those mutual relations of lord and vassal, which supplied the place of regular government in the polity of Europe, and has seldom or never been explicitly noticed, its introduction seemed not improper.

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SYSTEM.

Edict of
Conrad the
Salic.

It has been sometimes said that feuds were first rendered hereditary in Germany, by Conrad II. surnamed the Salic. This opinion is perhaps erroneous. But there is a famous edict of that emperor at Milan, in the year 1037, which, though immediately relating only to Lombardy, marks the full maturity of the system, and the last stage of its progress.* I have remarked already the custom of sub-infeudation, or grants of lands by vassals to be held of themselves, which had grown up with the growth of these tenures. There had occurred, however, some disagreement for want of settled usage, between these inferior vassals and their immediate lords, which this edict was expressly designed to remove. Four regulations of great importance are established therein; that no man should be deprived of his fief, whether held of the emperor, or a mesne lord, but by the laws of the empire, and the judgement of his peers;† that from such judgement, an immediate vassal might appeal to his sovereign; that fiefs should be inherited by sons and their children; or in their failure, by brothers, provided they were *feuda paterna*, such as had descended from the father;‡ and

* Spelman tells us, in his Treatise of Feuds, chap. ii. that Conradus Salicus, a French emperor, but of German descent [what can this mean?] went to Rome about 915 to fetch his crown from Pope John X. when, according to him, the succession of a son to his father's fief was first conceded. An almost unparalleled blunder in so learned a writer! Conrad

the Salic was elected at Worms in 1024, crowned at Rome by John XIX. in 1027, and made this edict at Milan in 1037.

† Nisi secundum constitutionem antecessorum nostrorum, et judicium parium suorum; the very expressions of Magna Charta.

‡ "Gerardus noteth," says Sir H. Spelman, "that this law settled not the feud upon

that the lord should not alienate the fief of his vassal without his consent.*

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Such was the progress of these feudal tenures, which determined the political character of every European monarchy where they prevailed, as well as formed the foundation of its jurisprudence. It is certainly inaccurate to refer this system, as is frequently done, to the destruction of the Roman empire by the northern nations, though in the beneficiary grants of those conquerors we trace its beginning. Five centuries, however, elapsed, before the alodial tenures, which had been incomparably the most general, gave way, and before the reciprocal contract of the feud attained its maturity. It is now time to describe the legal qualities and effects of this relation, so far only as may be requisite to understand its influence upon the political system.

The essential principle of a fief was a mutual contract of support and fidelity. Whatever obligations it laid upon the vassal of service to his lord, corresponding duties of protection were imposed by it on the lord towards his vassal.† If these were transgressed on either side, the one forfeited his land, the other his seigniorship or rights over it. Nor were motives of interest left alone to operate in securing the feudal connexion. The associations founded upon ancient custom and friendly attachment, the impulses of gratitude

Principles
of a feudal
relation.

the eldest son, or any other son of the feudatary particularly; but left in the lord's election to please himself with which he would." But the phrase of the edict runs, *filios ejus beneficium tenere*; which, when nothing more is said, can only mean a partition among the sons.

* The last provision may seem strange, at so advanced a period of the system; yet, according to Giannone, feuds were still revocable by the lord in some parts of Lombardy. *Istoria di Napoli*, l. xiii. c. 3. It seems, however, no more than had been already enacted by the first clause of this edict. Another interpretation is possible; namely, that the lord should not alienate his own seigniorship without his vassal's consent,

which was agreeable to the feudal tenures. This indeed would be putting rather a forced construction on the words, *ne domino feudum militis alienare liceat*.

† Crag. *Jus Feudale*, l. ii. tit. 11. Beaumanoir, *Coûtumes de Beauvoisis*, c. lxi. p. 311. Ass. de Jérus. c. 217. Lib. Feud. l. ii. tit. 26. 47.

Upon the mutual obligation of the lord towards his vassal, seems to be founded the law of warranty, which compelled him to make indemnification where the tenant was evicted of his land. This obligation, however unreasonable it may appear to us, extended, according to the feudal lawyers, to cases of mere donation. Crag. l. ii. tit. 4. Butler's *Notes on Co. Litt.* p. 365.

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and honour, the dread of infamy, the sanctions of religion, were all employed to strengthen these ties, and to render them equally powerful with the relations of nature, and far more so than those of political society. It is a question agitated among the feudal lawyers, whether a vassal is bound to follow the standard of his lord against his own kindred.* It was one more important, whether he must do so against the king. In the works of those who wrote when the feudal system was declining, or who were anxious to maintain the royal authority, this is commonly decided in the negative. Littleton gives a form of homage, with a reservation of the allegiance due to the sovereign ;† and the same prevailed in Normandy and some other countries.‡ A law of Frederic Barbarossa enjoins, that in every oath of fealty to an inferior lord, the vassal's duty to the emperor should be expressly reserved. But it was not so during the height of the feudal system in France. The vassals of Henry II. and Richard I. never hesitated to adhere to them against the sovereign, nor do they appear to have incurred any blame on that account. Even so late as the age of St. Louis, it is laid down in his Establishments, that if justice is refused by the king to one of his vassals, he might summon his own tenants, under penalty of forfeiting their fiefs, to assist him in obtaining redress by arms.§ The count of Britany, Pierre de Dreux, had practically asserted this feudal right during the minority of St. Louis. In a public instrument, he

* Crag. l. ii. tit. 4.

† Sect. lxxxv.

‡ Houard, Anc. Loix des François, p. 114. See too an instance of this reservation in Recueil des Historiens, t. xi. p. 447.

§ Si le Sire dit a son homme lige ; Venez vous en avec moi, je veux guerroyer mon Seigneur, qui me denie le jugement de sa cour, le vassal doit repondre ; j'irai scavoir, s'il est ainsi que vous me dites. Alors il doit aler trouver le supérieur, et luy dire : Sire, le gentilhomme de qui je tiens mon fief, se plaint que vous lui refusez justice ; je viens pour en scavoir la verité ; car je suis semoncé de marcher en guerre contre vous. Si la

reponse est que volontiers il fera droit en sa cour, l'homme n'est point obligé de déferer à la requisition du Sire ; mais il doit, ou le suivre, ou se resoudre a perdre son fief, si le chef Seigneur persiste dans son refus. Etablissemens de St. Louis, c. 49. I have copied this from Velly, t. vi. p. 213. who has modernized the orthography, which is almost unintelligible in the Ordonnances des Rois. One MS. gives the reading *Roi* instead of *Seigneur*. And the law certainly applies to the king *exclusively* ; for in case of denial of justice by a mesne lord there was an appeal to the king's court, but from his injury there could be no appeal but to the sword.

announced to the world, that having met with repeated injuries from the regent, and denial of justice, he had let the king know that he no longer considered himself as his vassal, but renounced his homage and defied him.*

The ceremonies used in conferring a fief were principally three: homage, fealty, and investiture. 1. The first was designed as a significant expression of the submission and devotedness of the vassal towards his lord. In performing homage, his head was uncovered, his belt ungirt, his sword and spurs removed; he placed his hands, kneeling, between those of the lord and promised to become his man from thenceforward; to serve him with life, and limb and worldly honour, faithfully and loyally, in consideration of the lands which he held under him. None but the lord in person could accept homage, which was commonly concluded by a kiss.† 2. An oath of fealty was indispensable in every fief; but the ceremony was less peculiar than that of homage, and it might be received by proxy. It was taken by ecclesiastics, but not by minors; and in language differed little from the form of homage.‡ 3. Investiture, or the actual conveyance of feudal lands, was of two kinds; proper and improper. The first was an actual putting in possession upon the ground, either by the lord or his deputy; which is called in our law livery of seizin. The second was symbolical, and consisted in the delivery of a turf, a stone, a wand, a branch, or whatever else might have been made

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of 1. Ho-
mage.

2. Fealty.

3. Investi-
ture.

* Du Cange, *Observations sur Joinville*, in *Collection des Mémoires*, t. i. p. 196. It was always necessary for a vassal to renounce his homage, before he made war on his lord, if he would avoid the shame and penalty of feudal treason. After a reconciliation, the homage was renewed. And in this no distinction was made between the king and another superior. Thus Henry II. did homage to the king of France in 1188, having renounced his former obligation to him at the commencement of the preceding war. *Matt. Paris*, p. 126.

† Du Cange, *Hominium*, and *Carpentier's Supplement*. id. voc. *Littleton*, s. 85. As-

sises de Jérusalem, c. 204. *Crag*. l. i. tit. 11. *Recueil des Historiens*, t. ii. préface, p. 174. *Homagium per paragium* was unaccompanied by any feudal obligation, and distinguished from *homagium ligeum*, which carried with it an obligation of fidelity. The dukes of Normandy rendered only homage per paragium to the kings of France, and received the like from the dukes of Britany. In liege homage, it was usual to make reservations of allegiance to the king or any other lord whom the homager had previously acknowledged.

‡ *Littl*. s. 91. Du Cange, voc. *Fidelitas*.

CHAP. usual by the caprice of local custom. Ducange enumerates not less
 II. than ninety eight varieties of investitures.*

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SYSTEM.

Obligations
of a vassal.

Upon investiture, the duties of the vassal commenced. These it is impossible to define or enumerate; because the services of military tenure, which is chiefly to be considered, were in their nature uncertain, and distinguished as such, from those incident to feuds of an inferior description. It was a breach of faith to divulge the lord's counsel, to conceal from him the machinations of others, to injure his person or fortune, or to violate the sanctity of his roof and the honour of his family.† In battle he was bound to lend his horse to his lord, when dismounted; to adhere to his side, while fighting: and to go into captivity as a hostage for him, when taken. His attendance was due in the lord's courts, sometimes to witness, and sometimes to bear a part in, the administration of justice.‡

* Du Cange, voc. Investitura.

† Assises de Jérusalem, c. 265. Home ne doit à la feme de son seigneur, ne à sa fille requerre vilainie de son cors, ne à sa sœur tant com elle est demoiselle en son hostel. I mention this part of feudal duty on account of the light it throws on the statute of treasons, 25 E. III. One of the treasons therein specified is, si ommie violast la compaigne le roy, ou leigné file le roy nient marié, ou la compaigne leigné fitz et heire le roy. Those, who like Sir E. Coke and the modern lawyers in general, explain this provision by the political danger of confusing the royal blood, do not apprehend its spirit. It would be absurd, upon such grounds, to render the violation of the king's eldest daughter treasonable, so long only as she remains unmarried, when, as is obvious, the danger of a spurious issue inheriting could not arise. I consider this provision therefore as entirely founded upon the feudal principles, which make it a breach of faith (that is, in the primary sense of the word, a treason) to sully the honour of the lord in that of the near relations who were immediately protected by residence in his house. If it is asked, why this should be restricted by the

statute to the person of the eldest daughter, I can only answer that this, which is not more reasonable according to the common political interpretation, is analogous to many feudal customs in our own and other countries which attribute a sort of superiority in dignity to the eldest daughter.

It may be objected, that in the reign of Edward III. there was little left of the feudal principle in any part of Europe, and least of all in England. But the statute of treasons is a declaration of the ancient law, and comprehends, undoubtedly, what the judges who drew it could find in records now perished, or in legal traditions of remote antiquity. Similar causes of forfeiture are enumerated in the Libri Feudorum, l. i. tit. 5. and l. ii. tit. 24. In the Establishments of St. Louis, c. 51, 52, it is said, that a lord seducing his vassal's daughter, intrusted to his custody, lost his seignior; a vassal guilty of the same crime towards the family of his suzerain, forfeited his land. A proof of the tendency which the feudal law had to purify public morals, and to create that sense of indignation and resentment with which we now regard such breaches of honour.

‡ Assises de Jérusalem, c. 222. A vassal,

The measure, however, of military service was generally settled by some usage. Forty days was the usual term, during which the tenant of a knight's fee was bound to be in the field at his own expense.* This was extended by St. Louis to sixty days, unless when the charter of infeudation expressed a shorter period. But the length of service diminished with the quantity of land. For half a knight's fee but twenty days were due; for an eighth part, but five; and when this was commuted for an escuage or pecuniary assessment, the same proportion was observed.† Men turned of sixty, public magistrates, and, of course, women were free from personal service, but obliged to send their substitutes. A failure in this primary duty incurred perhaps strictly a forfeiture of the fief. But it was usual for the lord to inflict an amercement, known in England by the name of escuage.‡ Thus in Philip III.'s expedition against the count de Foix in 1274, barons were assessed for their default of attendance, at a hundred sous a day for the expenses which they had saved, and fifty sous as

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SYSTEM.
Limitations
of military
service.

at least in many places, was bound to reside upon his fief, or not to quit it without the lord's consent. Du Cange, *voc. Reseantia, Remanentia*. *Recueil des Historiens*, t. xi. préface, p. 172.

* In the kingdom of Jerusalem, feudal service extended to a year. *Assises de Jérusalem*, c. 230. It is obvious, that this was founded on the peculiar circumstances of that state. Service of castle-guard, which was common in the north of England, was performed without limitation of time. *Lyttleton's Henry II.* vol. ii. p. 184.

† Du Cange, *voc. Feudum militis*; *Membrum Loricæ*. *Stuart's View of Society*, p. 382. This division by knight's fees is perfectly familiar in the feudal law of England. But I must confess my inability to adduce decisive evidence of it in that of France, with the usual exception of Normandy. According to the natural principle of fiefs, it might seem that the same personal service would be required from the tenant, whatever were the extent of his land. William the Conqueror, we know, distributed this kingdom into about 60,000 parcels, of nearly

equal value, from each of which the service of a soldier was due. He may possibly have been the inventor of this politic arrangement. Some rule must however have been observed in all countries in fixing the amercement for absence, which could only be equitable if it bore a just proportion to the value of the fief. And the principle of the knight's fee was so convenient and reasonable that it is likely to have been adopted in imitation of England by other feudal countries. In the roll of Philip III.'s expedition, as will appear by a note immediately below, there are, I think, several presumptive evidences of it, and though this is rather a late authority to establish a feudal principle, yet I have ventured to assume it in the text.

The knight's fee was fixed in England at the annual value of £20. Every estate supposed to be of this value, and entered as such in the rolls of the exchequer, was bound to contribute the service of a soldier, or to pay an escuage to the amount assessed upon knight's fees.

‡ Littleton, l. ii. c. 3. *Wright's Tenures*, p. 121.

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a fine to the king; bannerets, at twenty sous for expenses, and ten as a fine: knights and squires in the same proportion. But barons and bannerets were bound to pay an additional assessment for every knight and squire of their vassals, whom they ought to have brought with them into the field.* The regulations as to place of service were less uniform than those which regard time. In some places, the vassal was not bound to go beyond the lord's territory,† or only so far as he might return the same day. Other customs compelled him to follow his chief upon all his expeditions.‡ These inconvenient and varying usages betray the origin of the feudal obligations, not founded upon any national policy, but springing from the chaos of anarchy and intestine war, which they were well calculated to perpetuate. For the public defence, their machinery was totally unserviceable, until such changes were wrought, as destroyed the character of the fabric.

Feudal inci-
dents.

Independently of the obligations of fealty and service, which the nature of the contract created, other advantages were derived from it by the lord, which have been called feudal incidents. These were 1. Reliefs. 2. Fines upon alienation. 3. Escheats. 4. Aids; to which may be added, though not generally established, 5. Wardships, and 6. Marriage.

Reliefs.

1. Some writers have accounted for Reliefs in the following manner. Benefices, whether depending upon the crown, or its vassals, were not originally granted by way of absolute inheritance, but renewed from time to time upon the death of the possessor, till long custom grew up into right. Hence a sum of money, something

* Du Chesne, *Script. Rerum Gallicarum*, t. v. p. 553. Daniel, *Histoire de la Milice Française*, p. 72. The following extracts from the muster-roll of this expedition will illustrate the varieties of feudal obligation. Johannes d'Ormoy debet servitium per quatuor dies. Johannes Malet debet servitium per viginti dies, pro quo servitio misit Richardum Tichet. Guido de Laval debet servitium duorum militum et dimidii. Domi-

nus Sabrandus dictus Chabot dicit quod non debet servitium domino regi, nisi in comitatu Pictaviensi, et ad sumptus regis, tamen venit ad preces regis cum tribus militibus et duodecim scutiferis. Guido de Lusigniaco Dom. de Pierac dicit, quod non debet aliquid regi præter homagium.

† This was the custom of Beauvoisis. Beaumanoir, c. 2.

‡ Du Cange, et Carpentier, *voc. Hostis*.

between a price and a gratuity, would naturally be offered by the heir, on receiving a fresh investiture of the fief: and length of time might as legitimately turn this present into a due of the lord, as it rendered the inheritance of the tenant indefeasible. This is a very specious account of the matter. But those who consider the antiquity to which hereditary benefices may be traced, and the unreserved expressions of those instruments by which they were created, as well as the undoubted fact, that a large proportion of fiefs had been absolute alodial inheritances, never really granted by the superior, will perhaps be led rather to look for the origin of reliefs in that rapacity with which the powerful are ever ready to oppress the feeble. When a feudal tenant died, the lord, taking advantage of his own strength and the confusion of the family, would seize the estate into his hands, either by the right of force, or under some litigious pretext. Against this violence; the heir could in general have no resource but a compromise; and we know how readily acts of successful injustice change their name, and move demurely, like the wolf in the fable, under the cloathing of law. Reliefs and other feudal incidents are said to have been established in France* about the latter part of the tenth century, and they certainly appear in the famous edict of Conrad the Salic, in 1037, which recognizes the usage of presenting horses and arms to the lord, upon a change of tenancy.† But this also subsisted under the name of heriot, in England, as early as the reign of Canute.

A relief was a sum of money (unless where charter or custom introduced a different tribute) due from every one of full age, taking a fief by descent. This was in some countries arbitrary, or *ad misericordiam*, and the exactions practised under this pretence both upon superior and inferior vassals, ranked among the greatest abuses of the feudal policy. Henry I. of England promises in his charter,

* Ordonnances des Rois de France, t. i. préface, p. 10.

† *Servato usu* valvassorum majorum in tradendis armis equisque suis senioribus.

This, among other reasons, leads me to doubt the received opinion, that Italian fiefs were not hereditary before the promulgation of this edict.

CHAP. that they shall in future be just and reasonable; but the rate does
 II. not appear to have been finally settled, till it was laid down in
 PART I. Magna Charta, at about a fourth of the annual value of the fief.
 FEUDAL We find also fixed reliefs among the old customs of Normandy and
 SYSTEM. Beauvoisis. By a law of St. Louis, in 1245,* the lord was entitled to enter upon the lands, if the heir could not pay the relief, and possess them for a year. This right existed unconditionally in England under the name of primer seisin, but was confined to the king.†

Fines upon
 alienation.

2. Closely connected with reliefs, were the fines paid to the lord, upon the alienation of his vassal's feud; and indeed we frequently find them called by the same name. The spirit of feudal tenure established so intimate a connexion between the two parties, that it could be dissolved by neither without requiring the other's consent. If the lord transferred his seignior, the tenant was to testify his concurrence; and this ceremony was long kept up in England under the name of attornment. The assent of the lord to his vassal's alienation was still more essential, and more difficult to be obtained. He had received his fief, it was supposed, for reasons peculiar to himself, or to his family; at least his heart and arm were bound to his superior; and his service was not to be exchanged for that of a stranger who might be unable, or unwilling to render it. A law of Lothaire II. in Italy forbids the alienation of fiefs, without the lord's consent.‡ This prohibition is repeated in one of Frederic I. and a similar enactment was made by Roger king of Sicily.§ By

* Ordonnances des Rois, p. 55.

† Du Cange, v. Placitum, Relevium, Sporla. By many customs, a relief was due on every change of the lord, as well as of the vassal, but this was not the case in England. Beaumanoir speaks of reliefs as due only on collateral succession. Coutumes de Beauvoisis, c. 27. In Anjou and Maine they were not even due upon succession between brothers. Ordonnances des Rois, t. i. p. 58. And M. de Pastoret, in his valuable preface to the sixteenth volume of that collection,

says it was a rule, that the king had nothing upon lineal succession of a fief, whether in the ascending or descending line, but *la bouche et les mains*; i. e. homage and fealty. p. 20.

‡ Lib. Feudorum, l. ii. tit. 9. and 52. This was principally levelled at the practice of alienating feudal property in favour of the church, which was called, *pro animâ judicare*. Radevicus in Gestis Frederic. l. i. iv. c. 7. Lib. Feud. l. i. tit. 7. 16. l. ii. tit. 10. § Giannone, l. ii. c. 5.

the law of France, the lord was entitled, upon every alienation made by his tenant, either to redeem the fief by paying the purchase-money, or to claim a certain part of the value, by way of fine upon the change of tenancy.* In England, even the practice of sub-infeudation, which was more conformable to the law of fiefs and the military genius of the system, but injurious to the suzerains, who lost thereby their escheats and other advantages of seignior, was checked by Magna Charta,† and forbidden by the Statute 18 Edward I. called Quia Emptores, which at the same time gave the liberty of alienating lands, to be holden of the grantor's immediate lord. The tenants of the crown were not included in this act; but that of 1 Edward III. c. 12. enabled them to alienate, upon the payment of a composition into chancery, which was fixed at one-third of the annual value of the lands.‡

These restraints, placed for the lord's advantage upon the transfer of feudal property, are not to be confounded with those designed for the protection of heirs and preservation of families. Such were the *jus protimeseos*, in the books of the fiefs,§ and *retrait lignager* of the French law, which gave to the relations of the vendor a pre-

* Du Cange, v. Reaccapitum, Placitum, Rachatum. Pastoret, préface au seizième tome des Ordonnances, p. 20. Houard, Dict. du Droit Normand. Art. Fief. Argou, Inst. du Droit François, l. ii. c. 2. In Beaumanoir's age and district at least, sub-infeudation without the lord's licence incurred a forfeiture of the land; and his reason extends of course more strongly to alienation. Coutumes de Beauvoisis, c. 2. Velly, t. vi. p. 187. But, by the general law of feuds, the former was strictly regular, while the tenant forfeited his land by the latter. Craig mentions this distinction as one for which he is perplexed to account. Jus Feudale, l. iii. tit. 3. p. 632. It is however perfectly intelligible upon the original principles of feudal tenure.

† Dalrymple seems to suppose, that the 32d chapter of Magna Charta relates to alienation, and not to sub-infeudation. Essay on Feudal Property, edit. 1758. p. 83. See

Sir E. Coke, 2 Inst. p. 65 and 501; and Wright on Tenures, contra. Mr. Hargrave observes, that "the history of our law with respect to the powers of alienation before the statute of Quia emptores terrarum is very much involved in obscurity." Notes on Co. Litt. 43. a. In Glanvil's time, apparently, a man could only alienate (to hold of himself) rationabilem partem de terrâ suâ. l. vii. c. 1. But this may have been in favour of the kindred, as much as of the lord. Dalrymple's Essay, ubi supra.

It is probable, that Coke is mistaken in supposing, that "at the common law, the tenant might have made a feoffment of the whole tenancy to be holden of the lord."

‡ 2 Inst. p. 66. Blackstone's Commentaries, vol. ii. c. 5.

§ Lib. Feud. l. v. t. 13. There were analogies to this jus προτιμήσεως in the Roman law, and, still more closely, in the constitutions of the later Byzantine emperors.

CHAP.

II.

PART I.

FEUDAL
SYSTEM.

emption upon the sale of any fief, and a right of subsequent redemption. Such was the positive prohibition of alienating a fief held by title of descent, (*feudum paternum*,) without the consent of the kindred in the line of possible succession.* Such too were the still more rigorous fetters imposed by the English statute of entails, which precluded all lawful alienation, till, after two centuries, it was overthrown by the fictitious process of a common recovery. Though these partake in some measure of the feudal spirit, and would form an important head in the legal history of that system, it will be sufficient to allude to them in a sketch, which is confined to the development of its political influence.

A custom, very similar in effect to sub-infeudation, was the tenure by *frérage*, which prevailed in many parts of France. Primogeniture, in that extreme which our common law has established, was unknown, I believe, in every country upon the continent. The customs of France found means to preserve the dignity of families, and the indivisibility of a feudal homage, without exposing the younger sons of a gentleman to absolute beggary or dependence. Baronies indeed were not divided; but the eldest son was bound to make a provision in money, by way of apanage, for the other children, in proportion to his circumstances and their birth.† As to inferior fiefs, in many places, an equal partition was made; in others, the eldest took the chief portion, generally two-thirds, and received the homage of his brothers for the remaining part, which they divided. To the lord of whom the fief was held, himself did homage for the whole.‡ In the early times of the feudal policy, when military service was

* *Alienatio feudi paterni non valet etiam domini voluntate, nisi agnatis consentientibus.* Lib. Feud. apud Wright on Tenures, p. 108. and 156.

† Du Cange, v. *Apanamentum*, Baro. Baro. ne depart mie entre frères se leur pere ne leur a fait partie; mes li ainsnez doit faire avenant bienfet au puisné, et si doit les filles marier. Etablissem. de St. Louis, c. 24.

‡ This was also the law of Flanders and

Hainault. Martenne, *Thesaurus Anecdotor.* t. i. p. 1092. The customs as to succession were exceedingly various, as indeed they continued to be until the late generalization of French law. *Recueil des Histor.* t. ii. préface, p. 108. *Hist. de Languedoc*, t. ii. p. 111. and 511. In the former work, it is said that primogeniture was introduced by the Normans from Scandinavia.

the great object of the relation between lord and vassal, this, like all other sub-infeudation, was rather advantageous to the former. For, when the homage of a fief was divided, the service was diminished in proportion. Suppose, for example, the obligation of military attendance for an entire manor to have been forty days; if that came to be equally split among two, each would owe but a service of twenty. But if instead of being homagers to the same suzerain, one tenant held immediately of the other, as every feudatary might summon the aid of his own vassals, the superior lord would in fact obtain the service of both. Whatever opposition, therefore, was made to the rights of sub-infeudation or *fréage*, would indicate a decay in the military character, the living principle of feudal tenure. Accordingly in the reign of Philip Augustus, when the fabric was beginning to shake, we find a confederate agreement of some principal nobles, sanctioned by the king, to abrogate the *mesne* tenure of younger brothers, and establish an immediate dependence of each upon the superior lord.* This, however, was not universally adopted, and the original *fréage* subsisted to the last in some of the customs of France.†

3. As fiefs descended but to the posterity of the first taker, or at the utmost to his kindred, they necessarily became sometimes vacant for want of heirs; especially where, as in England, there was no power of devising them by will. In this case, it was obvious that they ought to revert to the lord, from whose property they had been derived. These reversions became more frequent through the forfeitures occasioned by the vassal's delinquency, either towards his superior lord, or the state. Various cases are laid down in the *Assises de Jérusalem*, where the vassal forfeits his land, for a year, for his life, or for ever.‡ But under rapacious kings, such as the Norman line in England, absolute forfeitures came to prevail, and a new doctrine was introduced, the corruption of blood, by which

Escheats
and For-
feitures.

* Ordonnances des Rois, t. i. p. 29.

‡ C. 200, 201.

† Du Cange, Dissert. III. sur Joinville.
Beauman. c. 47.

CHAP. the heir was effectually excluded from deducing his title through an
 II. attainted ancestor.

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Aids.

4. Reliefs, fines upon alienation, and escheats, seem to be natural reservations in the lord's bounty to his vassal. He had rights of another class which principally arose out of fealty and intimate attachment. Such were the aids which he was entitled to call for in certain prescribed circumstances. These depended a great deal upon local custom, and were often extorted unreasonably. Du Cange mentions several as having existed in France; such as an aid for the lord's expedition to the Holy Land, for marrying his sister, or eldest son, and for paying a relief to his suzerain on taking possession of his land.* Of these, the last appears to have been the most usual in England. But this, and other aids occasionally exacted by the lords, were felt as a severe grievance; and by Magna Charta three only are retained; to make the lord's eldest son a knight, to marry his eldest daughter, and to redeem his person from prison. They were restricted to nearly the same description by a law of William I. of Sicily, and by the customs of France.† These feudal aids are deserving of our attention, as the beginnings of taxation, of which for a long time they in a great measure answered the purpose, till the craving necessities and covetous policy of kings substituted for them more durable and onerous burthens.

I might here, perhaps, close the enumeration of feudal incidents, but that the two remaining, wardship and marriage, though only partial customs, were those of our own country, and tend to illustrate the rapacious character of a feudal aristocracy.

Wardship.

5. In England, and in Normandy which either suggested or shared in all these English institutions, the lord had the wardship of his tenant during minority.‡ By virtue of this right, he had both

* Du Cange, voc. Auxilium.

† Giannone, l. xii. c. 5. Velly, t. vi. p. 200. Ordonnances des Rois, t. i. p. 138. t. xvi. préface.

‡ Recueil des Historiens, t. xi. préf. p. 162. Argou, Inst. au Droit François, l. i. c. 6. Houard, Anciennes Loix des François, t. i. p. 147.

the care of his person, and received to his own use the profits of the estate. There is something in this custom very conformable to the feudal spirit; since none was so fit as the lord to train up his vassal to arms; and none could put in so good a claim to enjoy the fief, while the military service for which it had been granted was suspended. This privilege of guardianship seems to have been enjoyed by the lord in some parts of Germany:* but in the law of France, the custody of the land was entrusted to the next heir, and that of the person, as in socage tenures among us, to the nearest kindred of that blood which could not inherit.† By a gross abuse of this custom in England, the right of guardianship in chivalry, or temporary possession of the lands, was assigned over to strangers. This was one of the most vexatious parts of our feudal tenures, and was never perhaps more sorely felt, than in their last stage under the Tudor and Stuart families.

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6. Another right given to the lord by the Norman and English laws was that of marriage, or of tendering a husband to his female wards, while under age, whom they could not reject without forfeit-

Marriage.

* Schilter, *Institutiones Juris Feudalis*, p. 85.

† Du Cange, v. *Custodia*. *Assises de Jérusalem*, c. 178. *Etablissemens de St. Louis*, c. 17. *Beaumanoir*, c. 15. *Argou*, l. i. c. 6. The second of these uses nearly the same expression as Sir John Fortescue in accounting for the exclusion of the next heir from guardianship of the person; that *mauvaise convoitise li fairoit faire la garde du loup*.

I know not any mistake more usual in English writers who have treated of the feudal law, than that of supposing, that guardianship in chivalry was an universal custom. A charter of 1198, in Rymer, t. i. p. 105. seems indeed to imply that the incidents of *garde noble* and of marriage existed in the isle of Oleron. But Eleanor, by a later instrument, grants that the inhabitants of that island should have the wardship and marriage of their heirs without any interposition, and expressly abrogates all the evil customs

that her husband had introduced. p. 112. From hence I should infer, that Henry II. had endeavoured to impose the feudal burthens (which perhaps were then new even in England) upon his continental dominions. Radulphus de Diceto tells us of a claim made by him to the wardship of Chateauroux in Berry, which could not legally have been subject to that custom. Twysden, *X Scriptorum*, p. 599. And he set up pretensions to the custody of the duchy of Britany, after the death of his son Geoffrey. This might perhaps be justified by the law of Normandy, on which Britany depended. But Philip Augustus made a similar claim. In fact, these political assertions of right, prompted by ambition, and supported by force, are bad precedents to establish rules of jurisprudence upon. Both Philip and Henry were abundantly disposed to realize so convenient a prerogative, as that of guardianship in chivalry over the fiefs of their vassals. Lyttleton's *Henry II.* vol. iii. p. 441.

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SYSTEM.

ing the value of the marriage; that is, as much as any one would give to the guardian for such an alliance. This was afterwards extended to male wards; and became a very lucrative source of extortion to the crown, as well as to mesne lords. This custom seems to have had the same extent as wardships. It is found in the ancient books of Germany, but not of France.* The kings, however, and even inferior lords of that country, required their consent to be solicited for the marriage of their vassals' daughters. Several proofs of this occur in the history, as well as in the laws, of France; and the same prerogative existed in Germany, Sicily, and England.† A still more remarkable law prevailed in the kingdom of Jerusalem. The lord might summon any female vassal to accept one of three, whom he should propose, as her husband. No other condition seems to have been imposed on him in selecting these suitors, than that they should be of equal rank with herself. Neither the maiden's coyness, nor the widow's affliction, neither aversion to the proffered candidates, nor love to one more favoured, seem to have passed as legitimate excuses. One, only one plea, could come from the lady's mouth, who was resolute to hold her land in single blessedness. It was, that she was past sixty years of age; and after this unwelcome confession, it is justly argued, by the author of the law book which I quote, that the lord could not decently press her into matrimony.‡ However outrageous such an usage may appear to our ideas, it is to be recollected that the peculiar circumstances of that little state rendered it indispensable to possess in every fief a proper vassal to fulfil the duties of war.

* Schilter, ubi supra. Du Cange, voc. Disparagare, seems to admit this feudal right in France; but the passages he quotes do not support it. See also the word, Maritagium.

† Ordonnances des Rois, t. i. p. 155. Assises de Jérus. c. 180. and Thaumassière's note. Du Cange, ubi supra. Glanvil, l. vii. c. 12. Giannone, l. xi. c. 5. Wright on Tenures, p. 94. St. Louis in return, declared that he would not marry his own

daughter without the consent of his barons. Joinville, t. ii. p. 140. Henry I. of England had promised the same. The guardian of a female minor was obliged to give security to her lord not to marry her without his consent. Etablissements de St. Louis, c. 63.

‡ Ass. de Jérus. c. 224. I must observe, that Lauriere says this usage prevailed en plusieurs lieux, though he quotes no authority. Ordonnances des Rois, p. 155.

These feudal servitudes distinguish the maturity of the system. No trace of them appears in the capitularies of Charlemagne and his family, nor in the instruments by which benefices were granted. I believe that they did not make part of the regular feudal law before the eleventh, or perhaps the twelfth, century, though doubtless partial usages of this kind had grown up antecedently to either of those periods. If I am not mistaken, no allusion occurs to the lucrative rights of seigniorship in the Assises de Jérusalem, which are a monument of French usages in the eleventh century. Indeed that very general commutation of alodial property into tenure, which took place between the middle of the ninth and eleventh centuries, would hardly have been effected, if fiefs had then been liable to such burthens and so much extortion. In half-barbarous ages, the strong are constantly encroaching upon the weak; a truth, which, if it needed illustration, might find it in the progress of the feudal system.

We have thus far confined our enquiry to fiefs holden on terms of military service: since those are the most ancient and regular, as well as the most consonant to the spirit of the system. They alone were called proper feuds, and all were presumed to be of this description, until the contrary was proved by the charter of investiture. A proper feud was bestowed without price, without fixed stipulations, upon a vassal capable of serving personally in the field. But gradually, with the help of a little legal ingenuity, improper fiefs of the most various kinds were introduced, retaining little of the characteristics and less of the spirit which distinguished the original tenures. Women, if indeed that were an innovation, were admitted to inherit them;* they were granted for a price, and without reference to military service. The language of the feudal law was ap-

Proper and
improper
feuds.

* Women did not inherit fiefs in the German empire. Whether they were ever excluded from succession in France, I know not; the genius of a military tenure, and the old Teutonic customs, preserved in the Salic

law, seem adverse to their possession of feudal lands; yet the practice, at least from the eleventh century downwards, does not support the theory.

CHAP. II. PART I. FEUDAL SYSTEM. plied by a kind of metaphor to almost every transfer of property. Hence, pensions of money, and allowances of provisions, however remote from right notions of a fief, were sometimes granted under that name: and even where land was the subject of the donation, its conditions were often lucrative, often honorary, and sometimes ludicrous.*

Fiefs of office.

There is one extensive species of feudal tenure which may be distinctly noticed. The pride of wealth in the middle ages was principally exhibited in a multitude of dependants. The court of Charlemagne was crowded with officers of every rank, some of the most eminent of whom exercised functions about the royal person, which would have been thought fit only for slaves in the palace of Augustus or Antonine. The free born Franks saw nothing menial in the titles of cup-bearer, steward, marshal, and master of the horse, which are still borne by the noblest families in every country of Europe, and by sovereign princes in the Empire. From the court of the king, this favourite piece of magnificence descended to those of the prelates and barons, who surrounded themselves with household officers called ministerials: a name equally applied to those of a servile and of a liberal description.† The latter of these were rewarded with grants of lands, which they held under a feudal tenure by the condition of performing some domestic service to the lord. What was called in our law grand serjeanty affords an instance of this species of fief.‡ It is, however, an instance of the noblest kind; but Muratori has given abundance of proofs, that the com-

* Crag. Jus Feudale, l. i. tit. 10. Du Cange, voc. Feudum de Camera, &c. In the treaty between Henry I. of England and Robert count of Flanders, A. D. 1101, the king stipulates to pay annually 400 marks of silver, *in feodo*, for the military service of his ally. Rymer, Foedera, t. i. p. 2.

† Schmidt, Hist. des Allemands, t. iii. p. 92. Du Cange, v. Familia, Ministeriales.

‡ "This tenure," says Littleton, "is where a man holds his lands or tenements of our

sovereign lord the king by such services as he ought to do in his proper person to the king, as to carry the banner of the king, or his lance, or to lead his array, or to be his marshal, or to carry his sword before him at his coronation, or to be his sewer at his coronation, or his carver, or his butler, or to be one of his chamberlains at the receipt of his exchequer, or to do other like services." Sect. 153.

monest mechanical arts were carried on in the houses of the great, by persons receiving lands upon those conditions.*

These imperfect feuds, however, belong more properly to the history of law, and are chiefly noticed in the present sketch, because they attest the partiality manifested during the middle ages to the name and form of a feudal tenure. In the regular military fief we see the real principle of the system, which might originally have been defined; an alliance of free land-holders arranged in degrees of subordination according to their respective capacities of affording mutual support.

The peculiar and varied attributes of feudal tenures naturally gave rise to a new jurisprudence, regulating territorial rights in those parts of Europe which had adopted the system. For a length of time, this rested in traditionary customs, observed in the domains of each prince or lord, without much regard to those of his neighbours. Laws were made occasionally by the emperor in Germany and Italy, which tended to fix the usages of those countries. About the year 1170, Girard and Obertus, two Milanese lawyers, published two books of the law of fiefs, which obtained a great authority, and have been regarded as the ground-work of that jurisprudence.† A number of subsequent commentators swelled this code with their glosses and opinions, to enlighten or obscure the judgement of the imperial tribunals. These were chiefly civilians or canonists, who brought to the interpretation of old barbaric customs the principles of a very different school. Hence a manifest change was wrought in the law of feudal tenure, which they assimilated to the usufruct or the emphyteusis of the Roman code; modes of property somewhat analogous in appearance, but totally distinct in principle from the legitimate fief. These Lombard lawyers propagated a doctrine, which has been too readily received, that the feudal system originated in their country; and some writers upon jurisprudence, such as Duck and Sir James Craig, incline to give a preponderating authority

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II.

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FEUDAL
SYSTEM.Feudal law
books.

* Antiq. Ital. Dissert. 11. ad finem.

† Giannone, Ist. di Napoli, l. xiii. c. 3.

The Libri Feudorum are printed in most editions of the Corpus Juris Civilis.

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SYSTEM.

to their code. But whatever weight it may have possessed within the limits of the empire, a different guide must be followed to the ancient customs of France and England.* These were fresh from the fountain of that curious polity, with which the stream of Roman law had never mingled its waters. In England, we know that the Norman system, established between the conquest and the reign of Henry II., was restrained by regular legislation, by paramount courts of justice, and by learned writings, from breaking into discordant local usages, except in a comparatively small number of places, and has become the principal source of our common law. But the independence of the French nobles produced a much greater variety of customs. The whole number collected and reduced to certainty in the sixteenth century amounted to two hundred and eighty-five, or, omitting those inconsiderable for extent or peculiarity, to sixty. The earliest written customary in France is that of Bearn, which is said to have been confirmed by Viscount Gaston IV. in 1088.† Many others were written in the two subsequent ages, of which the customs of Beauvoisis, compiled by Beaumanoir under Philip III., are the most celebrated, and contain a mass of information on the feudal constitution and manners. Under Charles VII., an ordinance was made for the formation of a general code of customary law, by ascertaining for ever in a written collection those of each district; but the work was not completed till the reign of Charles IX. This was what may be called the common law of the *pays coutumiers*, or northern division of France, and the rule of all their tribunals, unless where controuled by royal edicts.

* Giannone explicitly contrasts the French and Lombard laws respecting fiefs. The latter was the foundation of the *Libri Feudorum*, and formed the common law of Italy. The former was introduced by Roger Guiscard into his dominions, in three books of constitutions, printed in Lindebrog's collection. There were several material differences, which Giannone enumerates, especially the Norman custom of primogeniture. *Ist. di Nap.* l. xi. c. 5.

† There are two editions of this curious old code; one at Pau, in 1552, republished

with a fresh title-page and permission of Henry IV., in 1602; the other at Lescars, in 1633. These laws, as we read them, are subsequent to a revision made in the middle of the sixteenth century, in which they were more or less corrected. The basis, however, is unquestionably very ancient. We even find the composition for homicide preserved in them; so that murder was not a capital offence in Bearn, though robbery was such. *Rubrica de Homicidis*, Art. xxxi. See too *Rubrica de Penas*, Art. i. and ii.

PART II.

Analysis of the Feudal System—Its local extent—View of the different Orders of Society during the Feudal Ages—Nobility—Their Ranks and Privileges—Clergy—Freemen—Serfs or Villeins—Comparative State of France and Germany—Privileges enjoyed by the French Vassals—Right of coining Money—And of private War—Immunity from Taxation—Historical View of the Royal Revenue in France—Methods adopted to augment it by depreciation of the Coin, &c.—Legislative Power—Its State under the Merovingian Kings—and Charlemagne—His Councils—Suspension of any general Legislative Authority during the prevalence of Feudal Principles—The King's Council—Means adopted to supply the want of a National Assembly—Gradual Progress of the King's Legislative Power—Philip IV. assembles the States General—Their Powers limited to Taxation—States under the Sons of Philip IV.—States of 1355 and 1356—They nearly effect an entire Revolution—The Crown recovers its vigour—States of 1380, under Charles VI.—Subsequent Assemblies under Charles VI. and Charles VII.—The Crown becomes more and more absolute—Louis XI.—States of Tours in 1484—Historical View of Jurisdiction in France—Its earliest stage under the first race of Kings, and Charlemagne—Territorial Jurisdiction—Feudal Courts of Justice—Trial by Combat—Code of St. Louis—The Territorial Jurisdictions give way—Progress of the Judicial Power of the Crown—Parliament of Paris—Peers of France—Increased Authority of the Parliament—Registration of Edicts—Causes of the Decline of Feudal System—Acquisitions of Domain by the Crown—Charters of Incorporation granted to Towns—Their previous condition—First Charters in the twelfth Century—Privileges contained in them—Military Service of Feudal Tenants commuted for Money—Hired Troops—Change in the Military System of Europe—General View of the advantages and disadvantages attending the Feudal System.

It has been very common to seek for the origin of feuds, or at least for analogies to them, in the history of various countries. But, though it is of great importance to trace the similarity of customs in different parts of the world, because it guides us to the discovery of general theorems as to human society, yet we should be on our guard against seeming analogies, which vanish away when they are closely observed. It is easy to find partial resemblances to the feudal system. The relation of patron and client in the Roman

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II.

PART II.

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SYSTEM.

Analogies
to the feudal
tenure.

CHAP. II. republic is not unlike that of lord and vassal, in respect of mutual fidelity; but it was not founded upon the tenure of land, nor military service. The veteran soldiers, and, in later times, some barbarian allies of the emperors, received lands upon condition of public defence; but they were bound, not to an individual lord, but to the state. Such a resemblance to fiefs may be found in the Zemindaries of Hindostan, and the Timariots of Turkey. The clans of the Highlanders and Irish followed their chieftain into the field; but their tie was that of imagined kindred and respect for birth, not the spontaneous compact of vassalage. Much less can we extend the name of feud, though it is sometimes strangely misapplied, to the polity of Poland and Russia. All the Polish nobles were equal in rights, and independent of each other; all who were less than noble, were in servitude. No government can be more opposite to the long gradations and mutual duties of the feudal system.*

Extent of
the feudal
system.

The regular machinery and systematic establishment of feuds, in fact, may be considered as almost confined to the dominions of Charlemagne, and to those countries which afterwards derived it from thence. In England, it can hardly be thought to have existed in a complete state before the conquest. Scotland, it is supposed, borrowed it soon after from her neighbour. The Lombards of Benevento had introduced feudal customs into the Neapolitan provinces, which the Norman conquerors afterwards perfected. Feudal tenures were so general in the kingdom of Aragon, that I reckon it among the monarchies which were founded upon that basis.† Charlemagne's empire, it must be remembered, extended as far as the

* In civil history many instances might be found of feudal ceremonies in countries not regulated by the feudal law. Thus Selden has published an infeudation of a vayvod of Moldavia by the king of Poland, A. D. 1485, in the regular forms. vol. iii. p. 514. But these political fiefs have hardly any connexion with the general system, and merely denote the subordination of one prince or people to another.

† It is probable, that feudal tenure was as ancient in the north of Spain, as in the contiguous provinces of France. But it seems to have chiefly prevailed in Aragon about the twelfth and thirteenth centuries, when the Moors south of the Ebro were subdued by the enterprize of private nobles, who, after conquering estates for themselves, did homage for them to the king. James I. upon the reduction of Valencia, granted lands by way

Ebro. But in Castile* and Portugal they were very rare, and certainly could produce no political effect. Benefices for life were sometimes granted in the kingdoms of Denmark and Bohemia.† Neither of these, however, nor Sweden nor Hungary, come under the description of countries influenced by the feudal system.‡ That system, however, after all these limitations, was so extensively diffused, that it might produce confusion, as well as prolixity, to pursue the collateral branches of its history in all the countries where it prevailed. But this embarrassment may be avoided without any loss, I trust, of important information. The English constitution

of fief, on condition of defending that kingdom against the Moors, and residing personally upon the estate. Many did not perform this engagement, and were deprived of the lands in consequence. It appears by the testament of this monarch, that feudal tenures subsisted in every part of his dominions. Martenne, *Thesaurus Anecdotorum*, t. i. p. 1141. 1155. An edict of Peter II. in 1210 prohibits the alienation of *emphyteuses* without the lord's consent. It is hard to say, whether regular fiefs are meant by this word. De Marca, *Marca Hispanica*, p. 1396. This author says, that there were no *arriere-fiefs* in Catalonia.

The Aragonese fiefs appear however to have differed from those of other countries in some respects. Zurita mentions fiefs according to the custom of Italy, which he explains to be such as were liable to the usual feudal aids for marrying the lord's daughter, and other occasions. We may infer, therefore, that these prestations were not customary in Aragon. *Anales de Aragon*, t. ii. p. 62.

* What is said of vassalage in Alfonso X.'s code, *Las siete partidas*, is short and obscure; nor am I certain, that it meant anything more than *voluntary commendation*, the custom mentioned in the former part of this chapter, from which the vassal might depart at pleasure. See however Du Cange, v. Honor, where authorities are given for the existence of Castilian fiefs; and I have met with occasional mention of them in history.

I believe that tenures of this kind were introduced in the fourteenth and fifteenth centuries; but not to any great extent. Marina, *Teoria de las Cortes*, t. iii. p. 14.

Tenures of a feudal nature, as I collect from Freirii *Institut. Juris Lusitani*, t. ii. tit. 1 and 3, existed in Portugal, though the jealousy of the crown prevented the system from being established. There were even territorial jurisdictions in that kingdom, though not, as I apprehend, in Castile.

† *Daniæ regni politicus status*. Elzevir, 1629. Stransky, *Respublica Bohemica*. Ib. In one of the oldest Danish historians, Sweno, I have noticed this expression: *Waldemarus, patris tunc potitus feodo*. Langebek, *Script. Rerum Danic.* t. i. p. 62. By this he means the duchy of Sleswic, not a fief, but an honour or government possessed by Waldemar. Saxo Grammaticus calls it more classically, *paternæ præfecturæ dignitas*. Sleswic was, in later times, sometimes held as a fief; but this does not in the least imply that lands in Denmark proper were feudal, of which I find no evidence.

‡ Though there were no feudal tenures in Sweden, yet the nobility and others were exempt from taxes on condition of serving the king with a horse and arms at their own expense; and a distinction was taken between *liber* and *tributarius*. But any one of the latter might become of the former class, or vice versâ. *Sueciæ descriptio*. Elzevir, 1631. p. 92.

CHAP. will find its place in another portion of these volumes ; and the
 II. political condition of Italy, after the eleventh century, was not much
 PART II. affected, except in the kingdom of Naples, an inconsiderable object,
 FEUDAL by the laws of feudal tenure. I shall confine myself therefore,
 SYSTEM. chiefly, to France and Germany ; and far more to the former than
 the latter country. But it may be expedient first to contemplate the
 state of society in its various classes during the prevalence of feudal
 principles, before we trace their influence upon the national govern-
 ment.

Classes of
 society.
 Nobility.

It has been laid down already as most probable, that no proper
 aristocracy, except that of wealth, was known under the early kings
 of France ; and it was hinted that hereditary benefices, or, in other
 words, fiefs, might supply the link that was wanting between per-
 sonal privileges and those of descent. The possessors of beneficiary
 estates were usually the richest and most conspicuous individuals in
 the state. They were immediately connected with the crown, and
 partakers in the exercise of justice and royal counsels. Their sons
 now came to inherit this eminence ; and, as fiefs were either inalien-
 able, or at least not very frequently alienated, rich families were
 kept long in sight ; and, whether engaged in public affairs, or living
 with magnificence and hospitality at home, naturally drew to them-
 selves popular estimation. The dukes and counts, who had changed
 their quality of governors into that of lords over the provinces
 intrusted to them, were at the head of this noble class. And in
 imitation of them, their own vassals, as well as those of the crown,
 and even rich alodialists, assumed titles from their towns or castles,
 and thus arose a number of petty counts, barons, and viscounts.
 This distinct class of nobility became co-extensive with the feudal
 tenures. For the military tenant, however poor, was subject to no
 tribute, no prestation, but service in the field ; he was the compa-
 nion of his lord in the sports and feasting of his castle, the peer of
 his court ; he fought on horseback, he was clad in the coat of mail,
 while the commonalty, if summoned at all to war, came on foot,
 and with no armour of defence. As everything in the habits of

society conspired with that prejudice, which, in spite of moral philosophers, will constantly raise the profession of arms above all others, it was a natural consequence, that a new species of aristocracy, founded upon the mixed considerations of birth, tenure, and occupation, sprung out of the feudal system. Every possessor of a fief was a gentleman, though he owned but a few acres of land, and furnished his slender contribution towards the equipment of a knight. In the *Libri Feudorum*, indeed, those who were three degrees removed from the emperor in order of tenancy, are considered as ignoble;* but this is restrained to modern investitures; and in France, where sub-infeudation was carried the farthest, no such distinction has met my observation.†

There still, however, wanted something to ascertain gentility of blood, where it was not marked by the actual tenure of land. This was supplied by two innovations devised in the eleventh and twelfth centuries; the adoption of sir-names, and of armorial bearings. The first are commonly referred to the former age, when the nobility began to add the names of their estates to their own, or, having any way acquired a distinctive appellation, transmitted it to their posterity.‡ As to armorial bearings, there is no doubt that emblems somewhat similar have been immemorially used both in war and peace. The shields of ancient warriors, and devices upon coins or seals, bear no distant resemblance to modern blazonry. But the general introduction of such bearings, as hereditary distinctions, has been sometimes attributed to tournaments, wherein the champions were distinguished by fanciful devices; sometimes to the crusades, where a multitude of all nations and languages stood in

* L. ii. tit. 10.

† The nobility of an *alodial* possession, in France, depended upon its right to territorial jurisdiction. Hence there were *franc-aleux nobles*, and *franc-aleux roturiers*; the latter of which were subject to the jurisdiction of the neighbouring lord. Loiseau, *Traité des Seigneuries*, p. 76. Denisart, *Dictionnaire des Décisions*, art. *Franc-aleu*.

‡ Mabillon, *Traité de Diplomatique*, l. ii. c. 7. The authors of the *Nouveau Traité de Diplomatique*, t. ii. p. 562. trace the use of sirnames in a few instances even to the beginning of the tenth century; but they did not become general, according to them, till the thirteenth.

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II.

PART II.

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need of some visible token to denote the banners of their respective chiefs. In fact, the peculiar symbols of heraldry point to both these sources, and have been borrowed in part from each.* Hereditary arms were perhaps scarcely used by private families before the beginning of the thirteenth century.† From that time, however, they became very general, and have contributed to elucidate that branch of history, whatever value we may assign to it, which regards the descent of illustrious families.

Its privi-
leges.

When the privileges of birth had thus been rendered capable of legitimate proof, they were enhanced in a great degree, and a line drawn between the high born and ignoble classes, almost as broad as that which separated liberty from servitude. All offices of trust and power were conferred on the former; those excepted, which appertained to the legal profession. A plebeian could not possess a fief.‡ Such at least was the original strictness: but as the aris-

* Mém. de l'Acad. des Inscriptions, t. xx. p. 579.

† I should be unwilling to make a negative assertion peremptorily in a matter of mere antiquarian research; but I am not aware of any decisive evidence that hereditary arms were borne in the twelfth century, except by a very few royal or almost royal families. Mabillon, *Traité de Diplomatique*, l. ii. c. 18. Those of Geoffrey the Fair, count of Anjou, who died in 1150, are extant on his shield; azure, four lions rampant or. *Hist. Littéraire de la France*, t. ix. p. 165. If arms had been considered as hereditary at that time, this should be the bearing of England, which, as we all know, differs considerably. Louis VII. sprinkled his seal and coin with fleurs de lys, a very ancient device, or rather ornament; and the same as what are sometimes called bees. The golden ornaments found in the tomb of Childeric I. at Tournay, which may be seen in the library of Paris, may pass either for fleurs de lys, or bees. Charles V. reduced the number to three, and thus fixed the arms of France. The counts of Toulouse used their cross in the twelfth age; but no other arms, Vaissette tells us, can be traced in Languedoc so far back. t. iii. p. 514.

Armorial bearings were in use among the Saracens during the later crusades; as appears by a passage in Joinville, t. i. p. 88. (*Collect. des Mémoires*) and Du Cange's note upon it. Perhaps however they may have been adopted in imitation of the Franks, like the ceremonies of knighthood. Villaret ingeniously conjectures, that the separation of different branches of the same family by their settlements in Palestine led to the use of hereditary arms, in order to preserve the connexion. t. xi. p. 113.

M. Sismondi, I observe, seems to entertain no doubt that the noble families of Pisa, including that whose name he bears, had their armorial distinctions in the beginning of the twelfth century. *Hist. des Républ. Ital.* t. i. p. 373. It is at least probable, that heraldic devices were as ancient in Italy as in any part of Europe. And the authors of *Nouveau Traité de Diplomatique*, t. iv. p. 388. incline to refer hereditary arms even in France to the beginning of the twelfth century; though without producing any evidence for this.

‡ We have no English word that expresses the sense of *roturier*. How glorious is this deficiency in our political language, and how different are the ideas suggested

tocratic principle grew weaker, an indulgence was extended to heirs, and afterwards to purchasers.* They were even permitted to become noble by the acquisition, or at least by its possession for three generations.† But notwithstanding this ennobling quality of the land, which seems rather of an equivocal description, it became an established right of the crown to take, every twenty years, and on every change of the vassal, a fine known by the name of franc-fief, from plebeians in possession of land held by a noble tenure.‡ A gentleman in France or Germany could not exercise any trade without derogating, that is, losing the advantages of his rank. A few exceptions were made, at least in the former country, in favour of some liberal arts, and of foreign commerce.§ But in nothing does the feudal haughtiness of birth more shew itself, than in the disgrace which attended unequal marriages. No children could inherit a territory held immediately of the empire, unless both their parents belonged to the higher class of nobility. In France, the offspring of a gentleman by a plebeian mother were reputed noble for the purposes of inheritance, and of exemption from tribute.||

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by *commoner*! Roturier, according to Du Cange, is derived from rupturarius, a peasant, ab agrum rumpendo.

* The establishments of St. Louis forbid this innovation, but Beaumanoir contends that the prohibition does not extend to descent or marriage. c. 48. The roturier who acquired a fief, if he challenged any one, fought with ignoble arms; but in all other respects was treated as a gentleman. *ibid.* Yet a knight was not obliged to do homage to the roturier, who became his superior by the acquisition of a fief on which he depended. Carpentier, *Supplement ad Du Cange*, voc. Homagium.

† Etablissements de St. Louis, c. 143. and note, in *Ordonnances des Rois*, t. i. See also preface to the same volume, p. xii. According to Mably, the possession of a fief did not cease to confer nobility (analogous to our barony by tenure) till the *Ordonnance de Blois* in 1579. *Observations sur l'Hist. de France*, l. iii. c. i. note 6. But

Laurière, author of the preface above cited, refers to Bouteiller, a writer of the fourteenth century, to prove that no one could become noble without the king's authority. The contradiction will not much perplex us, when we reflect on the disposition of lawyers to ascribe all prerogatives to the crown, at the expense of territorial proprietors, and of ancient customary law.

‡ The right, originally perhaps usurpation, called franc-fief, began under Philip the Fair. *Ordonnances des Rois*, t. i. p. 324. Denisart, Art. Franc-fief.

§ Houard, *Dict. du Droit Normand. Encyclopédie*, Art. Noblesse. Argou, l. ii. c. 2.

|| Nobility, to a certain degree, was communicated through the mother alone, not only by the custom of Champagne, but in all parts of France; that is, the issue were 'gentilhommes du fait de leur corps,' and could possess fiefs; but, says Beaumanoir, 'la gentillesse par laquelle on devient chevalier, doit venir de par le père. c. 45. There

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But they could not be received into any order of chivalry, though capable of simple knighthood; nor were they considered as any better than a bastard class, deeply tainted with the alloy of their maternal extraction. Many instances occur where letters of nobility have been granted to re-instate them in their rank.* For several purposes it was necessary to prove four, eight, sixteen, or a greater number of quarters, that is, of coats borne by paternal and maternal ancestors, and the same practice still subsists in Germany.

It appears, therefore, that the original nobility of the continent were, what we may call self-created, and did not derive their rank from any such concessions of their respective sovereigns, as have been necessary in subsequent ages. In England, the baronies by tenure might belong to the same class, if the lands upon which they depended had not been granted by the crown. But the kings of France, before the end of the thirteenth century, began to assume a privilege of creating nobles by their own authority, and without regard to the tenure of land. Philip the Hardy, in 1271, was the first French king who granted letters of nobility; under the reigns of Philip the Fair and his children they gradually became frequent.† This effected a change in the character of nobility; and had as obvious a moral, as other events of the same age had a political, influence, in diminishing the power and independence of the territorial aristocracy. The privileges originally connected with ancient lineage and extensive domains became common to the low-born creatures of a court, and lost consequently part of their title to respect. The lawyers, as I have observed above, pretended that nobility could not exist without a royal concession. They acquired themselves, in return for their exaltation of prerogative, an official nobility by the exercise of magistracy. The institutions of chivalry

was a proverbial maxim in French law, rather emphatic than decent, to express the derivation of gentility from the father, and of freedom from the mother.

* Beaumanoir, c. 45. Du Cange, Dis-

sert. 10. sur Joinville. Carpentier, voc. Nobilitatio.

† Velly, t. vi. p. 432. Du Cange, and Carpentier, voc. Nobilitare, &c. Boulainvilliers, Hist. de l'ancien Gouvernement de France, t. i. p. 317.

again gave rise to a vast increase of gentlemen; knighthood, on whomsoever conferred by the sovereign, being a sufficient passport to noble privileges. It was usual, perhaps, to grant previous letters of nobility to a plebeian for whom the honour of knighthood was designed.

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In this noble or gentle class there were several gradations. All those, in France, who held lands immediately depending upon the crown, whatever titles they might bear, were comprised in the order of barons. These were, originally, the peers of the king's court; they possessed the higher, as well as lower, territorial jurisdiction, and had the right of carrying their own banner into the field.* To these corresponded the Valvassores majores and Capitanei of the empire. In a subordinate class were the vassals of this high nobility, who, upon the continent, were usually termed Vavassors; an appellation not unknown, though rare in England.† The Châtelains belonged to the order of Vavassors, as they held only arriere fiefs; but having fortified houses, from which they derived their name, (a distinction very important in those times,) and possessing ampler rights of territorial justice, they seemed to raise themselves above the level of their fellows in the scale of tenure.‡ But, after the personal

Different
orders of
nobility.

* Beaumanoir, c. 34. Du Cange, v. Baro. Etablissemens de St. Louis, l. i. c. 24. l. ii. c. 36. The vassals of inferior lords were however called, improperly, Barons, both in France and England. Recueil des Historiens, t. xi. p. 300. Madox, Baronia Anglica, p. 133. In perfect strictness, those only, whose immediate tenure of the crown was older than the accession of Hugh Capet, were barons of France; namely, Bourbon, Coucy, and Beaujeu, or Beaujolois. It appears, however, by a register in the reign of Philip Augustus, that fifty-nine were reckoned in that class; confounding the feudataries of the Capetian fiefs, Paris and Orleans, with the original vassals of the crown. Du Cange, voc. Baro.

† Du Cange, v. Vavassor. Velly, t. vi. p. 151. Madox, Baronia Anglica, p. 135. There is, perhaps, hardly any word more loosely used than Vavassor. Bracton says,

Sunt etiam Vavassores, magnæ dignitatis viri. In France and Germany, they are sometimes named with much less honour. Je suis un chevalier né de cest part, de *vavasseurs et de basse gent*, says a romance. This is to be explained by the poverty to which the subdivision of fiefs reduced idle gentlemen.

‡ Du Cange, v. Castellanus. Coûtumes de Poitou, tit. iii. Loiseau, Traité des Seigneuries, p. 160. Whoever had a right to a castle had la haute justice; this being so incident to the castle, that it was transferred along with it. There might however be a Seigneur haut-justicier below the Châtelain; and a ridiculous distinction was made as to the number of posts by which their gallows might be supported. A baron's instrument of execution stood on four posts; a châtelain's on three; while the inferior lord, who happened to possess la haute justice,

CHAP. nobility of chivalry became the object of pride, the Vavassors, who
 II. obtained knighthood, were commonly styled bachelors; those who
 PART II. had not received that honour fell into the class of squires,* or
 FEUDAL damoiseaux.
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Clergy.

It will be needless to dwell upon the condition of the inferior clergy, whether secular or professed, as it bears little upon the general scheme of polity. The prelates and abbots, however, it must be understood, were completely feudal nobles. They swore fealty for their lands to the king or other superior, received the homage of their vassals, enjoyed the same immunities, exercised the same jurisdiction, maintained the same authority, as the lay lords among whom they dwelt. Military service does not appear to have been reserved in the beneficiary grants made to cathedrals and monasteries. But, when other vassals of the crown were called upon to repay the bounty of their sovereign by personal attendance in war, the ecclesiastical tenants were supposed to fall within the scope of this feudal duty, which men, little less uneducated and violent than their compatriots, were not reluctant to fulfil. Charlemagne exempted or rather prohibited them from personal service by several capitularies.† The practice, however, as every one who has some knowledge of history will be aware, prevailed in succeeding ages. Both in national and private warfare, we find very frequent

was forced to hang his subjects on a two-legged machine. *Coûtumes de Poitou*. Du Cange, v. *Furca*.

Laurière quotes from an old manuscript the following short scale of ranks. *Duc est la première dignité, puis comtes, puis viscomtes, et puis baron, et puis châtelain, et puis vavasseur, et puis citaen, et puis villain. Ordonnances des Rois, t. i. p. 277.*

* The sons of knights, and gentlemen not yet knighted, took the appellation of squires in the twelfth century. *Vaissette, Hist. de Lang. t. ii. p. 513.* That of *Damoiseau* came into use in the thirteenth. *Id. t. iii. p. 529.* The latter was, I think, more usual in France. Du Cange gives little information as to the word squire. (*Scutifer*). ‘*Apud Anglos,*’ he

says, ‘*penultima est nobilitatis descriptio, inter Equitem and Generosum. Quod et alibi in usu fuit.*’ Squire was not used as a title of distinction in England, till the reign of Edward III. and then but sparingly. Though by Henry VI.’s time it was grown common, yet none assumed it but the sons and heirs of knights, and some military men; except officers in courts of justice, who, by patent or prescription, had obtained that addition. *Spelman’s Posthumous Works, p. 234.*

† Mably, l. i. c. 5. Baluze, t. i. p. 410. 932. 987. Any bishop, priest, deacon, or subdeacon bearing arms was to be degraded, and not even admitted to lay communion. *Id. p. 932.*

mention of martial prelates.* But, contrary as this actual service might be to the civil as well as ecclesiastical laws, the clergy who held military fiefs were of course bound to fulfil the chief obligation of that tenure, and send their vassals into the field. We have many instances of their accompanying the army, though not mixing in the conflict; and even the parish-priests headed the militia of their villages.† The prelates however sometimes contrived to avoid this military service, and the payments introduced in commutation for it, by holding lands in frank-almoigne, a tenure which exempted them from every species of obligation, except that of saying masses for the benefit of the grantor's family.‡ But, notwithstanding the warlike disposition of some ecclesiastics, their more usual inability to protect the estates of their churches against rapacious neighbours suggested a new species of feudal relation and tenure. The rich abbey elected an advocate, whose business it was to defend their interests both in secular courts, and, if necessary, in the field. Pepin and Charlemagne are styled Advocates of the Roman church. This indeed was on a magnificent scale; but in ordinary practice, the advocate of a monastery was some neighbouring lord, who, in return for his protection, possessed many lucrative privileges, and, very frequently, considerable estates by way of fief from his ecclesiastical clients. Some of these advocates are reproached with violating their obligation, and becoming the plunderers of those whom they had been retained to defend.§

The classes below the gentry may be divided into freemen and villeins. Of the first were the inhabitants of chartered towns, the citizens and burghers, of whom more will be said presently. As to those who dwelt in the country, we can have no difficulty in recog-

Freemen.

* One of the latest instances of a fighting bishop is Jean Montaigu, archbishop of Sens, who was killed at Agincourt. Monstrelet says, that he was 'non pas en estat pontifical, car au lieu de mitre il portoit une bacinet, pour dalmatique portoit un haubergeon, pour chasuble la piece d'acier; et au lieu de crosse, portoit une hache.' fol. 132.

† Daniel, *Hist. de la Milice Françoise*, t. i. p. 38.

‡ Du Cange, *Eleemosyna Libera*. Madox, *Baronia Angl.* p. 115. Coke on Littleton, and other English law-books.

§ Du Cange, v. *Advocatus*; a full and useful article. *Recueil des Historiens*, t. xi. préface, p. 184.

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nizing, so far as England is concerned, the socagers, whose tenure was free, though not so noble as knight's service, and a numerous body of tenants for term of life, who formed that ancient basis of our strength, the English yeomanry. But the mere freemen are not at first sight so distinguishable in other countries. In French records and law books of feudal times, all besides the gentry are usually confounded under the names of villeins or *hommes de pooste*, (*gens potestatis*).^{*} This proves the slight estimation in which all persons of ignoble birth were considered. For undoubtedly there existed a great many proprietors of land and others, as free, though not as privileged, as the nobility. In the south of France, and especially Provence, the number of freemen is remarked to have been greater than in the parts on the right bank of the Loire, where the feudal tenures were almost universal.[†] Muratori mentions a sort of people in Italy, called *Arimanni*, who, though the name is somewhat obscure, seem to have been in a middle station, either cultivators of their own land, or free tenants of a superior.[‡] I shall quote part of a passage in Beaumanoir, which points out this distinction of ranks pretty fully. "It should be known, he says,[§] that there are three conditions of men in this world; the first, is that of gentlemen; and the second, is that of such as are naturally free, being born of a free mother. All who have a right to be called gentlemen are free, but all who are free, are not gentlemen. Gentility comes by the father, and not by the mother; but freedom is derived from the mother only: and whoever is born of a free mother, is himself free, and has free power to do any thing that is lawful."

^{*} *Homo potestatis, non nobilis*—Ita nuncupantur, quod in potestate domini sunt—Opponuntur viris nobilibus; apud Butilerium Consuetudinarii vocantur, Coustumiers, prestationibus scilicet obnoxii et operis. Du Cange, v. Potestas. As all these freemen were obliged, by the ancient laws of France, to live under the protection of some particular lord, and found great difficulty in chusing a new place of residence, as they were sub-

ject to many tributes and oppressive claims on the part of their territorial superiors, we cannot be surprized that they are confounded, at this distance, with men in actual servitude.

[†] Heeren, *Essai sur les Croisades*, p. 122.

[‡] Murat. *Antiq. Ital. Dissert.* 13. Robertson has confounded these *arimanni* with *originarii* and *conditionales*, who were not freemen. *Hist. Ch. V.* vol. i. not. 9.

[§] *Coûtumes de Beauvoisis*, c. 45. p. 256.

In every age and country, until times comparatively recent, personal servitude appears to have been the lot of a large, perhaps the greater, portion of mankind. We lose a good deal of our sympathy with the spirit of freedom in Greece and Rome, when the importunate recollection occurs to us, of the tasks which might be enjoined, and the punishments which might be inflicted, without controul either of law or opinion, by the keenest patriot of the Comitia, or the Council of Five Thousand. A similar, though less powerful, feeling will often force itself on the mind, when we read the history of the middle ages. The Germans, in their primitive settlements, were accustomed to the notion of slavery, incurred not only by captivity, but by crimes, by debt, and especially by loss in gaming. When they invaded the Roman empire, they found the same condition established in all its provinces. Hence, from the beginning of the æra now under review, servitude, under somewhat different modes, was extremely common. There is some difficulty in ascertaining its varieties and stages. In the Salic laws, and in the Capitularies, we read not only of Servi, but of Tributarii, Lidi, and Coloni, who were cultivators of the earth, and subject to residence upon their master's estate, though not destitute of property, or civil rights.* Those who appertained to the demesne lands of the crown were called Fiscalini. The composition for the murder of one of these was much less than that for a freeman.† The number of these servile cultivators was undoubtedly

* These passages are too numerous for reference. In a very early charter in Martenne's *Thesaurus Anecdotorum*, t. i. p. 20. lands are granted, cum hominibus ibidem permanentibus, quos *colonario ordine vivere constituimus*. Men of this class were called in Italy Aldiones. A Lombard capitulary of Charlemagne says: Aldiones eâ lege vivunt in Italiâ sub servitute dominorum suorum, quâ Fiscalini, vel Lidi vivunt in Franciâ.—Muratori, *Dissert.* 14.

† Originally it was but 45 solidi. *Leges Salicæ*, c. 43. but Charlemagne raised it to 100. *Baluzii Capitularia*, p. 402. There are several provisions in the laws of this

great and wise monarch in favour of liberty. If a lord claimed any one either as his villein or slave, (*colonus sive servus*), who had escaped beyond his territory, he was not to be given up till strict inquiry had been made in the place to which he was asserted to belong, as to his condition, and that of his family. p. 400. And if the villein shewed a charter of enfranchisement, the proof of its forgery was to lie upon the lord. No man's liberty could be questioned in the Hundred-court.

Yet whatever tendency the law might shew towards encouraging the manumission of slaves, it treated them, while in servitude, with the unfeeling indifference of the Roman

CHAP. II. PART II. FEUDAL SYSTEM. great, yet in those early times, I should conceive, much less than it afterwards became. Property was for the most part in small divisions, and a Frank who could hardly support his family upon a petty alodial patrimony was not likely to encumber himself with many servants. But the accumulation of overgrown private wealth had a natural tendency to make slavery more frequent. Where the small proprietors lost their lands by mere rapine, we may believe that their liberty was hardly less endangered.* Even where this was not the case, yet as the labour either of artizans or of free husbandmen was but sparingly in demand, they were often compelled to exchange their liberty for bread.† In seasons also of famine, and they were not unfrequent, many freemen sold themselves into slavery. A capitulary of Charles the Bald in 864 permits their redemption at an equitable price.‡ Others became slaves, as more fortunate men became vassals, to a powerful lord, for the sake of his protection. Many were reduced into this state through inability to pay those pecuniary compositions for offences, which were numerous and sometimes heavy in the barbarian codes of law; and many more by neglect of attendance on military expeditions of the king, the penalty of which was a fine called Heribann, with the alternative of perpetual servitude.§ A source of loss of liberty which may strike us as more extraordinary was superstition; men were infatuated enough to surrender themselves, as well as their properties, to churches and monasteries, in return for such benefit as as they might reap by the prayers of their new masters.||

code, from which, perhaps, the following provision is borrowed. Si quis servum injustè accusaverit alienum, et tormenta innocenter pertulerit, domino simile mancipium pro hoc furto reddat. Si vero innocens in tormento mortuus fuerit, duos servos ejusdem meriti sine dilatione domino restituat. Baluzii Capitularia, p. 900. There is nothing at Barbadoes equal to this.

* Montesquieu ascribes the increase of personal servitude in France to the continual revolts and commotions under the two first dynasties. l. xxx. c. 11.

† Du Cange, v. Obnoxatio.

‡ Baluz. Capitularia. The Greek traders purchased famished wretches on the coasts of Italy, whom they sold to the Saracens. Muratori, Annali d'Italia. A. D. 785. Much more would persons in this extremity sell themselves to neighbouring lords.

§ Du Cange, Heribannum. A full heribannum was 60 solidi; but it was sometimes assessed in proportion to the wealth of the party.

|| Beaumanoir, c. 45.

The characteristic distinction of a villein was his obligation to remain upon his lord's estate. He was not only precluded from selling the lands upon which he dwelt; but his person was bound, and the lord might reclaim him at any time, by suit in a court of justice, if he ventured to stray. But, equally liable to this confinement, there were two classes of villeins, whose condition was exceedingly different. In England, at least from the reign of Henry II., one only, and that the inferior species, existed; incapable of property, and destitute of redress, except against the most outrageous injuries.* The lord could seize whatever they acquired or inherited, or convey them, apart from the land, to a stranger. Their tenure bound them to what were called villein services, ignoble in their nature, and indeterminate in their degree; the felling of timber, the carrying of manure, the repairing of roads for their lord, who seems to have possessed an equally unbounded right over their labour and its fruits. But by the customs of France and Germany, persons in this abject state seem to have been called serfs, and distinguished from villeins, who were only bound to fixed payments and duties in respect of their lord, though, as it seems, without any legal redress, if injured by him.† “The third state of men, says Beaumanoir, in the passage above quoted, is that of such as are not free; and these are not all of one condition, for some are so subject to their lord, that he may take all they have, alive or dead, and imprison him whenever he pleases, being accountable to none but God; while others are treated more gently,

* Littleton, l. ii. c. 11. Non potest aliquis, (says Glanvil,) in villenagio positus, libertatem suam propriis denariis suis quærere—quia omnia catalla cujuslibet nativi intelliguntur esse in potestate domini sui. l. v. c. 5.

† This is clearly expressed in a French law book of the thirteenth century, the Conseil of Pierre des Fontaines, quoted by Du Cange, voc. Villanus. Et sache bien que selon Dieu tu n'as mie plenièr poesté sur ton vilain. Dont se tu prens du sien fors les droites redevances, que te doit, tu

les prens contre Dieu, et sur le peril de t'ame et come robierres. Et ce qu'on dit toutes les choses que vilains a, sont au Seigneur, c'est voirs a garder. Car s'il estoient son seigneur propre, il n'avoit nule difference entre serf et vilain, mais par notre usage n'a entre toi et ton vilain juge fors Dieu, tant com il est tes couchans et tes levans, s'il n'a autre loi vers toi fors la commune. This seems to render the distinction little more than theoretical.

CHAP. from whom the lord can take nothing but customary payments, though at their death all they have escheats to him."*

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FEUDAL
SYSTEM.

Gradual
abolition of
villinage.

Under every denomination of servitude, the children followed their mother's condition; except in England, where the father's state determined that of the children; on which account bastards of female villeins were born free; the law presuming the liberty of their father.† The proportion of freemen, therefore, would have been miserably diminished, if there had been no reflux of the tide, which ran so strongly towards slavery. But the usage of manumission made a sort of circulation between these two states of mankind. This, as is well known, was an exceedingly common practice with the Romans; and is mentioned, with certain ceremonies prescribed, in the Frankish and other early laws. The clergy, and especially several popes, enforced it as a duty upon laymen; and inveighed against the scandal of keeping Christians in bondage.‡ But they were not, it is said, equally ready in performing their own parts; the villeins upon church lands were among the last who were eman-

* Beaumanoir, c. 45. Du Cange, Villanus, Servus, and several other articles. Schmidt, Hist. des Allemands, t. ii. p. 171. 435. By a law of the Lombards, a free woman who married a slave might be killed by her relations, or sold; if they neglected to do so, the fisc might claim her as its own. Muratori, Dissert. 14. In France also, she was liable to be treated as a slave. Marculfi Formulæ, l. ii. 29. Even in the twelfth century, it was the law of Flanders, that whoever married a villein became one himself, after he had lived with her a twelve-month. Recueil des Historiens, t. xiii. p. 350. And, by a capitulary of Pepin, if a man married a villein believing her to be free, he might repudiate her and marry another. Baluze, p. 181.

Villeins themselves could not marry without the lord's licence, under penalty of forfeiting their goods, or at least of a mulct. Du Cange, v. Forismaritagium. This seems to be the true origin of the famous mercheta

mulierum, which has been ascribed to a very different custom. Du Cange, v. Mercheta Mulierum. Dalrymple's Annals of Scotland, vol. i. p. 312. Archæologia, vol. xii. p. 31.

† Littleton, s. 188. Bracton indeed holds, that the spurious issue of a nief, though by a free father, should be a villein, quia sequitur conditionem matris, quasi vulgo conceptus. l. i. c. 6. But the laws of Henry I. declare, that a son should follow his father's condition; so that this peculiarity is very ancient in our law. Leges Hen. I. c. 75 and 77.

‡ Enfranchisements by testament are very common. Thus, in the will of Seniofred, count of Barcelona, in 966, we find the following piece of corrupt Latin: de ipsos servos meos et ancillas, illi qui traditi fuerunt faciatis illos liberos propter remedium animæ meæ; et alii qui fuerunt de parentorum meorum remaneant ad fratres meos. Marca Hispanica, p. 887.

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cipated.* As society advanced in Europe, the manumission of slaves grew more frequent.† By the indulgence of custom in some places, or perhaps by original convention, villeins might possess property, and thus purchase their own redemption. Even where they had no legal title to property, it was accounted inhuman to divest them of their little possession, (the *peculium* of Roman law,) nor was their poverty, perhaps, less tolerable upon the whole, than that of the modern peasantry in most countries of Europe. It was only in respect of his lord, it must be remembered, that the villein, at least in England, was without rights;‡ he might inherit, purchase, sue in the courts of law; though, as defendant in a real action, he might shelter himself under the plea of villenage. The peasants of this condition were sometimes made use of in war, and rewarded with enfranchisement; especially in Italy, where the cities and petty states had often occasion to defend themselves with their whole population; and in peace the industry of free labourers must have been found more productive and better directed. Hence, the eleventh and twelfth centuries saw the number of slaves in Italy begin to decrease; early in the fifteenth, a writer quoted by Muratori speaks of them as no longer existing.§ The greater part of

* Schmidt, *Hist. des All.* t. i. p. 361. See however a charter of manumission from the chapter of Orleans, in 1224, to all their slaves, under certain conditions of service. Martenne, *Thesaurus Anecd.* t. i. p. 914. Conditional manumissions were exceedingly common. Du Cange, v. *Manumissio*; a long article.

† No one could enfranchise his villein without the superior lord's consent; for this was to diminish the value of his land, *apeticer le fief*. Beaumanoir, c. 45. *Establissemens de St. Louis*, c. 34. It was necessary therefore for the villein to obtain the suzerain's confirmation; otherwise he only changed masters, and escheated, as it were, to the superior; for the lord who had granted the charter of franchise was *estopped* from claiming him again.

‡ Littleton, s. 189. Perhaps this is not applicable to other countries. Villeins were incapable of being received as witnesses against freemen. *Recueil des Historiens*, t. xiv. préface, p. 65. There are some charters of kings of France admitting the serfs of particular monasteries to give evidence, or to engage in the judicial combat, against freemen. *Ordonnances des Rois*, t. i. p. 3. But I do not know that their testimony, except against their lord, was ever refused in England; their state of servitude not being absolute, like that of negroes in the West Indies, but particular and relative, as that of an apprentice or hired servant. This subject, however, is not devoid of obscurity, and I may probably return to it in another place.

§ Dissert. 14.

CHAP. II. PART II. FEUDAL SYSTEM. the peasants in some countries of Germany had acquired their liberty before the end of the thirteenth century; in other parts, as well as in all the northern and eastern regions of Europe, they remain in a sort of villenage to this day. Some very few instances of predial servitude have been discovered in England, so late as the time of Elizabeth,* and perhaps they might be traced still lower. Louis Hutin, in France, after innumerable particular instances of manumission had taken place, by a general edict in 1315, reciting that his kingdom is denominated the kingdom of the Franks, that he would have the fact to correspond with the name, emancipates all persons in the royal domains upon paying a just composition, as an example for other lords possessing villeins to follow.† Philip the Long renewed the same edict three years afterwards; a proof that it had not been carried into execution.‡ Indeed there are letters of the former prince, wherein, considering that many of his subjects are not apprized of the extent of the benefit conferred upon them, he directs his officers to tax them as high as their fortunes can well bear.§

* Barrington's Observations on the ancient Statutes, p. 274. A book which every one must allow to be agreeable, though a severe critic will not always praise its accuracy.

† Ordonnances des Rois, t. i. p. 583.

‡ Id. p. 653.

§ Velly, t. viii. p. 38. Philip the Fair had emancipated the villeins in the royal domains throughout Languedoc, retaining only an annual rent for their lands, which thus became *censives*, or *emphyteuses*. It does not appear by the charter, that he sold this enfranchisement, though there can be little doubt about it. He permitted his vassals to follow the example. Vaissette, Hist. de Languedoc, t. iv. Appendix, p. 3 and 12.

It is not generally known, I think, that predial servitude was not abolished in all parts of France till the revolution. In some places, says Pasquier, the peasants are *taillables à volonté*, that is, their contribution is not permanent, but assessed by the lord

with the advice of *prud'hommes*, *resseants sur les lieux*, according to the peasant's ability. Others pay a fixed sum. Some are called *serfs de poursuite*, who cannot leave their habitations, but may be followed by the lord into any part of France for the *taille* upon their goods. This was the case in part of Champagne, and the Nivernois. Nor could these serfs, or *gens de mainmorte*, as they were sometimes called, be manumitted without letters patent of the king, purchased by a fine. *Recherches de la France*, l. iv. c. 5. Du Bos informs us, that in 1615, the Tiers Etat prayed the king to cause all serfs (*hommes de poote*) to be enfranchised on paying a composition; but this was not complied with, and they existed in many parts when he wrote. *Histoire Critique*, t. iii. p. 298. Argou, in his *Institutions du Droit François*, confirms this, and refers to the customaries of Nivernois and Vitry. l. i. c. 1. And M. de Bréquigny, in his preface to the twelfth volume of the col-

It is deserving of notice, that a distinction existed from very early times in the nature of lands, collateral, as it were, to that of persons. Thus we find *mansi ingenui* and *mansi serviles* in the oldest charters, corresponding to the *bocland* and *folkland* of the Anglo-Saxons, the *liberum tenementum* and *villenagium*, or freehold and copyhold of our later law. In France, all lands held in *roture* appear to be considered as villein tenements, and are so termed in Latin, though many of them rather answer to our socage freeholds. But, although originally this servile quality of lands was founded on the state of their occupiers, yet there was this particularity, that lands never changed their character along with that of the possessor; so that a nobleman might, and often did, hold estates in *roture*, as well as a *roturier* acquire a fief. Thus in England the *terre tenants* in villenage, who occur in our old books, were not villeins, but freemen holding lands which had been from time immemorial of a villein quality.

At the final separation of the French from the German branch of Charlemagne's empire by the treaty of Verdun in 843, there was perhaps hardly any difference in the constitution of the two kingdoms. If any might be conjectured to have existed, it would be a greater independence, and fuller rights of election in the nobility and people of Germany. But in the lapse of another century, France had lost all her political unity, and her kings all their authority; while the Germanic empire was entire and unbroken,

Compara-
tive state of
France and
Germany.

lection of Ordonnances, p. 22, says that throughout almost the whole jurisdiction of the parliament of Besançon, the peasants were attached to the soil, not being capable of leaving it without the lord's consent; and that in some places he even inherited their goods in exclusion of the kindred. I recollect to have read in some part of Voltaire's correspondence, an anecdote of his interference, with that zeal against oppression, which is the shining side of his moral character, in behalf of some of these wretched slaves of Franche-comté.

About the middle of the fifteenth century, some Catalonian serfs who had escaped into France being claimed by their lords, the parliament of Toulouse declared, that every man who entered the kingdom, *en criant France*, should become free. The liberty of our kingdom is such, says Mezeray, that its air communicates freedom to those who breathe it, and our kings are too august to reign over any but freemen. Villaret, t. xv. p. 348. How much pretence Mezeray had for such a flourish, may be decided by the former part of this note.

CHAP. under an effectual, though not absolute, controul of its sovereign.

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SYSTEM.

No comparison can be made between the power of Charles the Simple and Conrad the First, though the former had the shadow of an hereditary right, and the latter was chosen from among his equals. A long succession of feeble princes or usurpers, and destructive incursions of the Normans, reduced France almost to a dissolution of society; while Germany, under Conrad, Henry, and the Othos, found their arms not less prompt and successful against revolted vassals, than external enemies. The high dignities were less completely hereditary than they had become in France; they were granted indeed pretty regularly, but they were solicited as well as granted; while the chief vassals of the French crown assumed them as patrimonial sovereignties, to which a royal investiture gave more of ornament than sanction.

In the eleventh century, these imperial prerogatives began to lose part of their lustre. The long struggles of the princes and clergy against Henry IV. and his son, the revival of more effective rights of election on the extinction of the house of Franconia, the exhausting contests of the Swabian emperors in Italy, the intrinsic weakness produced by a law of the empire, according to which the reigning sovereign could not retain an imperial fief more than a year in his hands, gradually prepared that independence of the German aristocracy, which reached its height about the middle of the thirteenth century. During this period the French crown had been insensibly gaining strength; and as one monarch degenerated into the mere head of a confederacy, the other acquired unlimited power over a solid kingdom.

It would be tedious, and not very instructive, to follow the details of German public law during the middle ages: nor are the more important parts of it easily separable from civil history. In this relation, they will find a place in a subsequent chapter of the present volume. France demands a more minute attention; and in tracing the character of the feudal system in that country, we shall

find ourselves insensibly developing the progress of a very different polity. CHAP. II.

PART II.

FEUDAL SYSTEM.

Privileges of the French vassals.

To understand in what degree the peers and barons of France, during the prevalence of feudal principles, were independent of the crown, we must look at their leading privileges. These may be reckoned: 1. The right of coining money: 2. That of waging private war; 3. The exemption from all public tributes, except the feudal aids; 4. The freedom from legislative controul; and, 5. The exclusive exercise of original judicature in their dominions. Privileges so enormous and so contrary to all principles of sovereignty, might lead us, in strictness, to account France rather a collection of states, partially allied to each other, than a single monarchy.

I. Silver and gold were not very scarce in the first ages of the French monarchy; but they passed more by weight, than by tale. A lax and ignorant government, which had not learned the lucrative mysteries of a royal mint, was not particularly solicitous to give its subjects the security of a known stamp in their exchanges.* In some cities of France, money appears to have been coined by private authority before the time of Charlemagne; at least one of his capitularies forbids the circulation of any that had not been stamped in the royal mint. His successors indulged some of their vassals with the privilege of coining money for the use of their own territories, but not without the royal stamp. About the beginning of the tenth century, however, the lords, among their other assumptions of independence, issued money with no marks but their own.† At the accession of Hugh Capet, as many as a hundred and fifty are said to have exercised this power. Even under St. Louis, it was

Coining money.

* The practice of keeping fine gold and silver uncoined, prevailed among private persons, as well as in the treasury, down to the time of Philip the Fair. Nothing is more common than to find, in the instruments of earlier times, payments or fines stipulated by weight of gold or silver. Le Blanc therefore thinks, that little money was coined in France, and that only for

small payments. *Traité des Monnoyes*. It is curious, that though there are many gold coins extant of the first race of kings, yet few or none are preserved of the second or third, before the reign of Philip the Fair. Du Cange, v. *Moneta*.

† Vaissette, *Hist. de Languedoc*, t. ii. p. 110. *Rec. des Historiens*, t. xi. préf. p. 180. Du Cange, v. *Moneta*.

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possessed by about eighty; who, excluding, as far as possible, the royal coin from circulation, enriched themselves at their subjects' expense by high duties (seigniorages), which they imposed upon every new coinage, as well as by debasing its standard.* In 1185, Philip Augustus requests the abbot of Corvey, who had desisted from using his own mint, to let the royal money of Paris circulate through his territories; promising that when it should please the abbot to coin money afresh for himself, the king would not oppose its circulation.†

Several regulations were made by Louis IX. to limit, as far as lay in his power, the exercise of this baronial privilege; and, in particular, by enacting that the royal money should circulate in the domains of those barons who had mints, concurrently with their own; and exclusively within the territories of those who did not enjoy that right. Philip the Fair established royal officers of inspection in every private mint. It was asserted in his reign, as a general truth, that no subject might coin silver money.‡ In fact, the adulteration practised in those baronial mints had reduced their pretended silver to a sort of black metal, as it was called, (*moneta nigra*,) into which little entered but copper. Silver, however, and even gold were coined by the dukes of Britany so long as that fief continued to exist. No subjects ever enjoyed the right of coining silver in England without the royal stamp and superintendence;§ a remarkable proof of the restraint in which the feudal aristocracy was always held in this country.

* Le Blanc, *Traité des Monnoyes*, p. 91.

† Du Cange, *voc. Moneta*. Velly, *Hist. de France*, t. ii. p. 93. Villaret, t. xiv. p. 200.

‡ Du Cange, *ibid.* The right of debasing the coin was also claimed by this prince as a choice flower of his crown. Item, *abaisser et amener la monnoye, est privilege especial au roy de son droit royal, si que a luy appartient, et non a autre, et encore en un seul cas, c'est a scavoir en necessité, et lors ne vient pas le ganeg ne convertit en sen profit especial, mais en profit, et en la defence du commun.* This was in a process

commenced by the king's procureur-général against the comte de Nevers, for defacing his coin. Le Blanc, *Traité des Monnoyes*, p. 92. In many places the lord took a sum from his tenants every three years, under the name of *monetarium* or *focarium*, in lieu of debasing his money. This was finally abolished in 1380. Du Cange, *v. Monetarium*.

§ I do not extend this to the *fact*; for in the anarchy of Stephen's reign, both bishops and barons coined money for themselves. Hoveden, p. 490.

II. The passion of revenge, always among the most ungovernable in human nature, acts with such violence upon barbarians, that it is utterly beyond the controul of their imperfect arrangements of polity. It seems to them no part of the social compact, to sacrifice the privilege which nature has placed in the arm of valour. Gradually, however, these fiercer feelings are blunted, and another passion, hardly less powerful than resentment, is brought to play in a contrary direction. The earlier object accordingly of jurisprudence is to establish a fixed atonement for injuries, as much for the preservation of tranquillity as the prevention of crime. Such were the weregilds of the barbaric codes, which, for a different purpose, I have already mentioned.* But whether it were that the kindred did not always accept, or the criminal offer, the legal composition, or that other causes of quarrel occurred, private feuds (faida) were perpetually breaking out, and many of Charlemagne's capitularies are directed against them. After his time, all hope of restraining so inveterate a practice was at an end; and every man who owned a castle to shelter him in case of defeat, and a sufficient number of dependents to take the field, was at liberty to retaliate upon his neighbours whenever he thought himself injured. It must be kept in mind, that there was, frequently, either no jurisdiction to which he could appeal, or no power to enforce its awards; so that we may consider the higher nobility of France as in a state of nature with respect to each other, and entitled to avail themselves of all legitimate grounds of hostility. The right of waging private war was moderated by Louis IX., checked by Philip IV., suppressed by Charles VI., but a few vestiges of its practice may be found still later.†

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SYSTEM.Right of
private war.

* The antiquity of compositions for murder is illustrated by Iliad Σ. 497. where, in the description of the shield of Achilles, two disputants are represented wrangling before the judge, for the weregild, or price of blood.

ἐννεκα ποινῆς ἀνδρὸς ἀποφθιμένου.

† The subject of private warfare is treated

so exactly and perspicuously by Robertson, that I should only waste the reader's time by dwelling so long upon it, as its extent and importance would otherwise demand. See Hist. of Charles V. vol. i. note 21. Few leading passages in the monuments of the middle ages, relative to this subject, have es-

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SYSTEM.

Immunity
from taxa-
tion.
Revenues of
kings of
France.

III. In the modern condition of governments, taxation is a chief engine of the well-compacted machinery which regulates the system. The payments, the prohibitions, the licences, the watchfulness of collection, the evasions of fraud, the penalties and forfeitures, that attend a fiscal code of laws, present continually to the mind of the most remote and humble individual, the notion of a supreme, vigilant, and coercive authority. But the early European kingdoms knew neither the necessities, nor the ingenuity of modern finance. From their demesne lands, the kings of France and Lombardy supplied the common expenses of a barbarous court. Even Charlemagne regulated the œconomy of his farms with the minuteness of a steward, and a large proportion of his capitularies are directed to this object. Their actual revenue was chiefly derived from free gifts made, according to an ancient German custom, at the annual assemblies* of the nation, from amercements paid by alodial proprietors for default of military service, and from the freda, or fines accruing to the judge out of compositions for murder.† These amounted to one third of the whole weregild; and of this, again, one third was paid over by the count to the royal exchequer. After the feudal government prevailed in France, and neither the heribannum nor the weregild continued in use, there seems to have been hardly any source of regular revenue besides the domanial estates of the crown: unless we may reckon as such, that during a journey, the king had a prescriptive right to be supplied with necessaries by the towns and abbies through which he passed; commuted sometimes into pretty regular payments, called droits de giste et de che-

caped the penetrating eye of that historian; and they are arranged so well as to form a comprehensive treatise in small compass. I know not that I could add any much worthy of notice, unless it be the following. In the treaty between Philip Augustus and Richard Cœur de Lion, (1194) the latter refused to admit the insertion of an article, that none of the barons of either party should molest the other; lest he should infringe

the customs of Poitou and his other dominions, in quibus consuetum erat ab antiquo, ut magnates causas proprias invicem gladiis allegarent. Hoveden, p. 741. (in Saville, Script. Anglic.)

* Du Cange, Dissertation quatrième sur Joinville.

† Mably, l. i. c. 2. note 3. Du Cange, voc. Heribannum, Fredum.

vauchée.* Hugh Capet was nearly indigent as king of France; though, as count of Paris and Orleans, he might take the feudal aids and reliefs of his vassals. Several other small emoluments of himself and his successors, whatever they may since have been considered, were in that age rather seigniorial than royal. The rights of toll, of customs, of alienage (aubaine), generally even the regale, or enjoyment of the temporalities of vacant episcopal sees and other ecclesiastical benefices,† were possessed within their own domains by the great feudataries of the crown. They, I apprehend, contributed nothing to their sovereign; not even those aids which the feudal customs enjoined.‡

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The history of the royal revenue in France is, however, too important to be slightly passed over. As the necessities of government increased, partly through the love of magnificence and pageantry, introduced by the crusades and the temper of chivalry, partly in consequence of employing hired troops instead of the feudal militia, it became impossible to defray its expenses by the ordinary means. Several devices, therefore, were tried, in order to replenish the exchequer. One of these was by extorting money from the Jews. It is almost incredible to what a length this was carried. Usury, forbidden by law and superstition to Christians, was confined to this industrious and covetous people.§ It is now no secret, that all regulations interfering with the interest of money render its terms more rigorous and burthensome. The children of Israel grew rich in despite of insult and oppression, and retaliated upon their Christian

Exactions
from the
Jews.

* Velly, t. ii. p. 329. Villaret, t. xiv. p. 174—195. Recueil des Historiens, t. xiv. préface, p. 37. The last is a perspicuous account of the royal revenue in the twelfth century. But far the most luminous view of that subject, for the three next ages, is displayed by the comte de Pastoret, in his prefaces to the fifteenth and sixteenth volumes of the Ordonnances des Rois.

† The duke of Burgundy and count of Champagne did not possess the regale. But it was enjoyed by all the other peers; by the dukes of Normandy, Guienne, and Britany;

the counts of Toulouse, Poitou, and Flanders. Mably, l. iii. c. 4. Recueil des Historiens, t. ii. p. 229. and t. xiv. p. 53. Ordonnances des Rois, t. i. p. 621.

‡ I have never met with any instance of a relief, aid, or other feudal contribution paid by the vassals of the French crown; but in this negative proposition it is possible that I may be deceived.

§ The Jews were celebrated for usury as early as the sixth century. Greg. Turon. l. iv. c. 12. and l. vii. c. 23.

CHAP. II. PART II. FEUDAL SYSTEM. debtors. If an historian of Philip Augustus may be believed, they possessed almost one half of Paris. Unquestionably they must have had support both at the court and in the halls of justice. The policy of the kings of France was to employ them as a sponge to suck their subject's money, which they might afterwards express with less odium than direct taxation would incur. Philip Augustus released all Christians in his dominions from their debts to the Jews, reserving a fifth part to himself.* He afterwards expelled the whole nation from France. But they appear to have returned again; whether by stealth, or, as is more probable, by purchasing permission. St. Louis twice banished, and twice recalled the Jews. A series of alternate persecution and tolerance was borne by this extraordinary people with an invincible perseverance, and a talent of accumulating riches which kept pace with their plunderers; till new schemes of finance supplying the turn, they were finally expelled under Charles VI. and never afterwards obtained any legal establishment in France.†

Debase-
ment of the
coin.

A much more extensive plan of rapine was carried on by lowering the standard of coin. Originally the pound, a money of account, was equivalent to twelve ounces of silver; and divided into twenty pieces of coin, (sous) each equal consequently to nearly three shillings and four pence of our new English money.‡ At the revolution, the money of France had been depreciated in the proportion of seventy-three to one, and the sol was about equal to an English half-penny. This was the effect of a long continuance of fraudulent and arbitrary government. The abuse began under Philip I. in 1103, who alloyed his silver coin with a third of copper. So good an example was not lost upon subsequent princes; till under St. Louis, the mark-weight of silver, or eight ounces, was equivalent to fifty

* Rigord, in Du Chesne, Hist. Franc. Script. t. iii. p. 8.

† Villaret, t. ix. p. 433. Metz contained, and I suppose still contains, a great many Jews; but Metz was not part of the ancient kingdom.

‡ Besides this silver coin, there was a golden sol, worth forty pence. Le Blanc thinks the solidi of the Salic law and Capitularies mean the latter piece of money. The denarius, or penny, was worth two sous six deniers of modern French coin.

sous of the debased coin. Nevertheless these changes seem hitherto to have produced no discontent; whether it were that a people, neither commercial nor enlightened, did not readily perceive their tendency; or, as has been ingeniously conjectured, that these successive diminutions of the standard were nearly counterbalanced by an augmentation in the value of silver, occasioned by the drain of money during the crusades, with which they were about contemporaneous.* But the rapacity of Philip the Fair kept no measures with the public; and the mark in his reign had become equal to eight livres or a hundred and sixty sous of money. Dissatisfaction and even tumults arose in consequence, and he was compelled to restore the coin to its standard under St. Louis.† His successors practised the same arts of enriching their treasury; under Philip of Valois, the mark was again worth eight livres. But the film had now dropt from the eyes of the people; and these adulterations of money, rendered more vexatious by continued re-coinages of the current pieces, upon which a fee was extorted by the moneyers, shewed in their true light as mingled fraud and robbery.‡

These resources of government, however, by no means superseded the necessity of more direct taxation. The kings of France exacted

Direct taxation.

* Villaret, t. xiv. p. 198. The price of commodities, he asserts, did not rise till the time of St. Louis. If this be said on good authority, it is a remarkable fact; but in England we know very little of prices before that period, and I doubt if their history has been better traced in France.

† It is curious, and not perhaps unimportant, to learn the course pursued in adjusting payments upon the restoration of good coin, which happened pretty frequently in the fourteenth century, when the States-General, or popular clamour, forced the court to retract its fraudulent policy. Le Blanc has published several ordinances nearly to the same effect. One of Charles VI. explains the method adopted rather more fully than the rest. All debts incurred since the depreciated coin began to circulate were to be paid in that coin, or according to its va-

lue. Those incurred previously to its commencement were to be paid according to the value of the money circulating at the time of the contract. Item, que tous les vrais emprunts faits en deniers sans fraude, se payeront en telle monnoye comme l'on aura emprunté, si elle a plein cours au temps du payement, et sinon, ils payeront en monnoye coursable lors selon la valeur et le prix du marc d'or ou d'argent. p. 32.

‡ Continuator Gul. de Nangis in Spicilegio, t. iii. For the successive changes in the value of French coins, the reader may consult Le Blanc's treatise, or the Ordonnances des Rois; or he may find a summary view of them in Du Cange, v. Moneta. The bad consequences of these innovations are well treated by M. de Pastoret, in his elaborate preface to the sixteenth volume of the Ordonnances des Rois, p. 40.

CHAP. II. PART II. FEUDAL SYSTEM. money from the roturiers, and particularly the inhabitants of towns, within their domains. In this they only acted as proprietors, or suzerains; and the barons took the same course in their own lands. Philip Augustus first ventured upon a stretch of prerogative, which, in the words of his biographer, disturbed all France. He deprived by force, says Rigord, both his own vassals, who had been accustomed to boast of their immunities, and their feudal tenants, of a third part of their goods.* Such arbitrary taxation of the nobility, who deemed that their military service discharged them from all pecuniary burthens, France was far too aristocratical a country to bear. It seems not to have been repeated; and his successors generally pursued more legitimate courses. Upon obtaining any contribution, it was usual to grant letters patent, declaring that it had been freely given, and should not be turned into precedent in time to come. Several of these letters patent of Philip the Fair are extant, and published in the general collection of ordinances.† But in the reign of this monarch, a great innovation took place in the French constitution, which, though it principally affected the method of levying money, may seem to fall more naturally under the next head of consideration.

Want of supreme legislative authority.

IV. There is no part of the French feudal policy so remarkable as the entire absence of all supreme legislation. We find it difficult to conceive the existence of a political society, nominally one kingdom, and under one head, in which, for more than three hundred years, there was wanting the most essential attribute of government. It will be requisite, however, to take this up a little higher, and inquire, what was the original legislature of the French monarchy.

Original legislative assemblies of France.

Arbitrary rule, at least in theory, was uncongenial to the character

* Du Chesne, t. v. p. 43.

† Faisons scavoir et recognoissons que la derniere subvention que ils nous ont faite (les barons, vassaux et nobles d'Auvergne) de pure grace sans ce que ils y fussent tenus que de grace; et voulons et leur octroyons que les autres subventions que ils nous ont

faites ne leur facent nul prejudice, es choses esquelles ils n'étoient tenus, ne par ce nul nouveau droit ne nous soit acquis ne amenuisié. Ordonnance de 1304. apud Mably, l. iv. c. 3. note 5. See other authorities in the same place.

of the northern nations. Neither the power of making laws, nor that of applying them to the circumstances of particular cases, were left at the discretion of the sovereign. The Lombard kings held assemblies every year at Pavia, where the chief officers of the crown and proprietors of lands deliberated upon all legislative measures, in the presence and, nominally at least, with the consent of the multitude.* Frequent mention is made of similar public meetings in France by the historians of the Merovingian kings, and, still more unequivocally, by their statutes.† These assemblies have been called parliaments of the Champ de Mars, having originally been held in the month of March. We know very little of their constituent members; but it is probable, that every alodial proprietor had a legal right to assist in their deliberations; and at least equally so, that the efficient power was nearly confined to the leading aristocracy. Such indeed is the impression conveyed by a remarkable passage of Hincmar, archbishop of Rheims, during the time of Charles the Bald, who has preserved, on the authority of a writer contemporary with Charlemagne, a sketch of the Frankish government under that great prince. Two assemblies (placita) were annually held. In the first, all regulations of importance to the public weal for the ensuing year were enacted; and to this, he says, the whole body of clergy and laity repaired; the greater, to deliberate upon what was fitting to be done; and the less, to confirm by their voluntary assent, not through deference to power, or sometimes even to discuss, the resolutions of their superiors.‡ In the second annual

Assemblies
held by
Charle-
magne.

* Luitprand, king of the Lombards, says that his laws sibi placuisse unà cum omnibus iudicibus de Austriæ et Neustriæ partibus, et de Tusciæ finibus, cum reliquis fidelibus meis Langobardis, et omni populo assistente. Muratori, Dissert. 22.

† Mably, l. i. c. 1. note 1. Lindebrog, Codex Legum Antiquarum, p. 363. 369. The following passage, quoted by Mably, (c. ii. n. 6.) from the preamble of the revised Salic law under Clotaire II. is explicit.

Temporibus Clotairii regis unà cum principibus suis, id est, 33 episcopis et 34 ducibus et 79 comitibus, *vel* cætero populo constituta est. A remarkable instance of the use of *vel* instead of *et*, which was not uncommon, and is noticed by Du Cange, under the word *Vel*. Another proof of it occurs in the very next quotation of Mably from the edict of 615, cum pontificibus, *vel* cum magnis viris optimatibus.

‡ Consuetudo tunc temporis talis erat, ut

CHAP. II. assembly, the chief men and officers of state were alone admitted, to consult upon the most urgent affairs of government. They debated, in each of these, upon certain capitularies, or short proposals, laid before them by the king. The clergy and nobles met in separate chambers, though sometimes uniting for the purposes of deliberation. In these assemblies, and principally, I presume, in the more numerous of the two annually summoned, that extensive body of laws, the capitularies of Charlemagne, were enacted. And though it would contradict the testimony just adduced from Hincmar, to suppose, that the lesser freeholders took a very effective share in public counsels, yet their presence, and the usage of requiring their assent, indicate the liberal principles upon which the system of Charlemagne was founded. It is continually expressed in his capitularies, and those of his family, that they were enacted by general consent.* In one of Louis the Debonair, we even trace the first germ of representative legislation. Every count is directed to bring with him to the general assembly twelve Scabini, if there should be so many in his county; or, if not, should fill up the number out of the most respectable persons resident. These Scabini were judicial assessors of the count, chosen by the alodial proprietors.†

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The circumstances however of the French empire for several

non sapius, sed bis in anno placita duo teneantur. Unum, quando ordinabatur status totius regni ad anni vertentis spatium; quod ordinatum nullus eventus rerum, nisi summa necessitas, quæ similiter toti regno incumberebat, mutabat. In quo placito generalitas universorum majorum, tam clericorum quam laicorum, conveniebat; seniores, propter consilium ordinandum; minores, propter idem consilium suscipiendum, et interdum pariter tractandum, et non ex potestate, sed ex proprio mentis intellectu vel sententiâ confirmandum. Hincmar, Epist. 5. de ordine palatii. I have not translated the word *majorum* in the above quotation, not apprehending its sense.

* Capitula quæ præterito anno legi Salicæ cum omnium consensu addenda esse censui-

mus. (A. D. 801.) Ut populus interrogetur de capitulis quæ in lege noviter addita sunt, et postquam omnes consenserint, subscriptiones et manufirmationes suas in ipsis capitulis faciant. (A. D. 813.) Capitularia patris nostri quæ Franci pro lege tenenda judicaverunt. (A. D. 837.) I have borrowed these quotations from Mably, who remarks that the word *populus* is never used in the earlier laws. See too Du Cange, vv. Lex, Mallum, Pactum.

† Vult dominus Imperator ut in tale placitum quale ille nunc jusserit, veniat unusquisque comes, et adducat secum duodecim scabinos, si tanti fuerint; sin autem, de melioribus hominibus illius comitatus suppleat numerum duodenarium. Mably, l. ii. c. 2.

subsequent ages were exceedingly adverse to such enlarged schemes of polity. The nobles contemned the imbecile descendants of Charlemagne; and the people, or lesser freeholders, if they escaped absolute villenage, lost their immediate relation to the supreme government in the subordination to their lord established by the feudal law. Yet we may trace the shadow of ancient popular rights in one constitutional function of high importance, the choice of a sovereign. Historians who relate the election of an emperor or king of France seldom omit to specify the consent of the multitude, as well as of the temporal and spiritual aristocracy; and even in solemn instruments that record such transactions, we find a sort of importance attached to the popular suffrage.* It is surely less probable that a recog-

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* It has been intimated in another place, p. 111. that the French monarchy seems not to have been strictly hereditary under the later kings of the Merovingian race; at least expressions indicating a formal election are frequently employed by historians. Pepin of course came in by the choice of the nation. At his death he requested the consent of the counts and prelates to the succession of his sons; (Baluzii Capitularia, p. 187.) though they had bound themselves by oath at his consecration, never to elect a king out of another family. *Ut nunquam de alterius lumbis regem eligere præsument.* (Formula Consecrationis Pippini in Recueil des Historiens, t. v.) In the instrument of partition by Charlemagne among his descendants, he provides for their immediate succession in absolute terms, without any mention of consent. But in the event of the decease of one of his sons leaving a child, *whom the people shall chuse*, the other princes were to permit him to reign. Baluze, p. 440. This is repeated more perspicuously in the partition made by Louis I. in 817. *Si quis eorum decedens legitimos filios reliquerit, non inter eos potestas ipsa dividatur, sed potius populus pariter conveniens, unum ex iis, quem dominus voluerit, eligat, et hunc senior frater in loco fratris et filii recipiat.* Baluze, p. 577. Proofs of popular consent being given to the succession of kings during the two next centuries are frequent, but of less importance

on account of the irregular condition of government. Even after Hugh Capet's accession, hereditary right was far from being established. The first six kings of this dynasty procured the *co-optation* of their sons, by having them crowned during their own lives. And this was not done without the consent of the chief vassals. (Recueil des Hist. t. xi. p. 133.) In the reign of Robert, it was a great question, whether the elder son should be thus designated as heir in preference to his younger brother, whom the queen, Constance, was anxious to place upon the throne. Odolric, bishop of Orleans, writes to Fulbert, bishop of Chartres, in terms which lead one to think, that neither hereditary succession, nor primogeniture, was settled on any fixed principle. (Id. t. x. p. 504.) And a writer in the same collection, about the year 1000, expresses himself in the following manner: *Melius est electioni principis non subscribere, quàm post subscriptionem electum contemnere; in altero enim libertatis amor laudatur, in altero servilis contumacia probro datur. Tres namque generales electiones novimus; quarum una est regis vel imperatoris, altera pontificis, altera abbatis. Et primam quidem facit concordia totius regni; secundam vero unanimitas civium et cleri; tertiam sanius consilium cœnobiticæ congregationis.* (Id. p. 626.) At the coronation of Philip I. in 1059, the nobility and people (*milites et po-*

CHAP. II. PART II. FEUDAL SYSTEM. nition of this elective right should have been introduced as a mere ceremony, than that the form should have survived after length of time and revolutions of government had almost obliterated the recollection of its meaning.

It must however be impossible to ascertain even the theoretical privileges of the subjects of Charlemagne, much more to decide how far they were substantial or illusory. We can only assert in general, that there continued to be some mixture of democracy in the French constitution during the reigns of Charlemagne and his first successors. The primæval German institutions were not eradicated. In the Capitularies, the consent of the people is frequently expressed. Fifty years after Charlemagne, his grandson Charles the Bald succinctly expresses the theory of legislative power. A law, he says, is made by the people's consent and the king's enactment.* It would hardly be warranted by analogy or precedent, to interpret the word people so very narrowly as to exclude any alodial proprietors, among whom, however unequal in opulence, no legal inequality of rank is supposed to have yet arisen.

But by whatever authority laws were enacted, whoever were the constituent members of national assemblies, they ceased to be held in about seventy years from the death of Charlemagne. The latest capitularies are of Carloman in 882.† From this time there ensues a long blank in the history of French legislation. The kingdom was as a great fief, or rather as a bundle of fiefs, and the king little more than one of a number of feudal nobles, differing rather in dignity than in power from some of the rest. The royal council was com-

puli tam majores quam minores) testified their consent by crying, *Laudamus, volumus, fiat.* t. xi. p. 33. I suppose, if search were made, that similar testimonies might be found still later; and perhaps hereditary succession cannot be considered as a fundamental law till the reign of Philip Augustus, the æra of many changes in the French constitution.

* *Lex consensu populi fit, constitutione regis.* Recueil des Hist. t. vii. p. 656.

† It is generally said, that the capitularies cease with Charles the Simple, who died in 921. But Baluze has published only two under the name of that prince; the first, a declaration of his queen's jointure; the second, an arbitration of disputes in the church of Tongres; neither surely deserving the appellation of a law.

posed only of barons, or tenants in chief, prelates, and household officers. These now probably deliberated in private, as we hear no more of the consenting multitude. Political functions were not in that age so clearly separated, as we are taught to fancy they should be; this council advised the king in matters of government, confirmed and consented to his grants, and judged in all civil and criminal cases, where any peers of their court were concerned.* The great vassals of the crown acted for themselves in their own territories, with the assistance of councils similar to that of the king. Such indeed was the symmetry of feudal customs, that the manerial court of every vavassor represented in miniature that of his sovereign.†

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SYSTEM.Royal coun-
cil of the
third race.

But, notwithstanding the want of any permanent legislation during so long a period, instances occur, in which the kings of France appear to have acted with the concurrence of an assembly, more numerous and more particularly summoned than the royal council. At such a congress held in 1146, the crusade of Louis VII. was undertaken.‡ We find also an ordinance of the same prince in some collections, reciting that he had convoked a general assembly at Soissons, where many prelates and barons then present had consented and requested, that private wars might cease for the term of ten years.§ The famous Saladine tithe was imposed upon lay as

Occasional
assemblies
of barons.

* Regali potentiâ in nullo abuti volentes, says Hugh Capet, omnia negotia reipublicæ in consultatione et sententiâ fidelium nostrorum disponimus. Recueil des Hist. t. x. p. 392. The subscriptions of these royal counsellors were necessary for the confirmation, or, at least, the authentication of charters, as was also the case in England, Spain and Italy. This practice continued in England till the reign of John.

The Curia regis seems to have differed only in name from the Concilium regium. It is also called Curia parium, from the equality of the barons who composed it, standing in the same feudal degree of relation to the sovereign. But we are not yet arrived at the subject of jurisdiction, which it is very difficult to keep distinct from what is immediately before us.

† Recueil des Hist. t. xi. p. 300. and préface, p. 179. Vaissette, Hist. de Languedoc, t. ii. p. 508.

‡ Velly, t. iii. p. 119. This, he observes, is the first instance in which the word parliament is used for a deliberative assembly.

§ Ego Ludovicus Dei gratiâ Francorum rex, ad reprimendum fervorem malignantium, et compescendum violentas prædorum manus, postulationibus cleri et assensu baroniæ, toti regno pacem constituimus. Eâ causâ, anno Incarnati Verbi 1155, iv idus Jun. Suessionense concilium celebre adunavimus, et affuerunt archiepiscopi Remensis, Senonensis et eorum suffraganei; item barones, comes Flandrensis, Treceusis, et Nivernensis et quamplures alii, et dux Burgundiæ. Ex quorum beneplacito ordinavimus a veniente Paschâ ad decem annos,

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And when Innocent IV., during his contest with the emperor Frederic, requested an asylum in France, St. Louis, though much inclined to favour him, ventured only to give a conditional permission, provided it were agreeable to his barons, whom, he said, a king of France was bound to consult in such circumstances. Accordingly he assembled the French barons, who unanimously refused their consent.†

Cours Plé-
nières.

It was the ancient custom of the kings of France, as well as of England, and indeed of all those vassals who affected a kind of sovereignty, to hold general meetings of their barons, called Cours Plénières or Parliaments, at the great festivals of the year. These assemblies were principally intended to make a display of magnificence, and to keep the feudal tenants in good humour; nor is it easy to discover that they passed in any thing but pageantry.‡ Some respectable antiquaries have however been of opinion, that affairs of state were occasionally discussed in them; and this is certainly by no means inconsistent with probability, though not sufficiently established by evidence.§

Excepting a few instances, most of which have been mentioned, it does not appear, that the kings of the house of Capet acted according to the advice and deliberation of any national assembly, such as assisted the Norman sovereigns of England; nor was any consent required for the validity of their edicts, except that of their ordinary council, chiefly formed of their household officers and less powerful vassals. This is at first sight very remarkable. For there can be no doubt that the government of Henry I. or Henry II. was incomparably stronger than that of Louis VI. or Louis VII. But

ut omnes ecclesiæ regni et omnes agricolæ
etc. pacem habeant et securitatem ———
In pacem istam juraverunt Dux Burgun-
diæ, Comes Flandriæ, ——— et reliqui
barones qui aderant.

This ordinance is published in Du Chesne,
Script. Rerum Gallicarum, t. iv. and in

Recueil des Histor. t. xiv. p. 387; but not
in the general collection of Ordonnances.

* Velly, t. iii. p. 315.

† Idem, t. iv. p. 306.

‡ Du Cange, Dissert. 5. sur Joinville.

§ Mém. de l'Acad. des Inscript. t. xli.

Recueil des Hist. t. xi. préface, p. 155.

this apparent absoluteness of the latter was the result of their real weakness and the disorganization of the monarchy. The peers of France were infrequent in their attendance upon the king's council, because they denied its coercive authority. It was a fundamental principle, that every feudal tenant was so far sovereign within the limits of his fief, that he could not be bound by any law without his consent. The king, says St. Louis in his Establishments, cannot make proclamation, that is, declare any new law, in the territory of a baron without his consent, nor can the baron do so in that of a vavassor.* Thus, if legislative power be essential to sovereignty, we cannot in strictness assert the king of France to have been sovereign beyond the extent of his domanial territory. Nothing can more strikingly illustrate the dissimilitude of the French and English constitutions of government, than the sentence above cited from the code of St. Louis.

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SYSTEM.Limitations
of royal
power in le-
gislation.

Upon occasions, when the necessity of common deliberation, or of giving to new provisions more extensive scope than the limits of a single fief, was too glaring to be overlooked, congresses of neighbouring lords met in order to agree upon resolutions, which each of them undertook to execute within his own domains. The king was sometimes a contracting party, but without any coercive authority over the rest. Thus we have what is called an ordinance, but, in reality, an agreement, between the king (Philip Augustus) the countess of Troyes or Champagne, and the lord of Dampierre, relating to the Jews in their domains; which agreement or ordinance, it is said, should endure "until ourselves, and the countess of Troyes, and Guy de Dampierre, who make this contract, shall dissolve it with the consent of such of our barons as we shall summon for that purpose."†

Substitutes
for legisla-
tive autho-
rity.

* Ne li Rois ne puet mettre ban en la terre au baron sans son assentement, ne li Bers [Baron] ne puet mettre ban en la terre au vavassor. Ordonnances des Rois, t. i. p. 126.

† Quousque nos, et comitissa Trecensis, et Guido de Domnâ petrâ, qui hoc facimus,

per nos, et illos de baronibus nostris, quos ad hoc vocare volumus, illud diffaciamus. Ordonnances des Rois, t. i. p. 39. This ordinance bears no date, but it was probably between 1218 and 1223, the year of Philip's death.

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SYSTEM.First mea-
sures of ge-
neral legis-
lation.

Ecclesiastical councils were another substitute for a regular legislature; and this defect in the political constitution rendered their encroachments less obnoxious, and almost unavoidable. That of Troyes in 878, composed perhaps in part of laymen, imposed a fine upon the invaders of church property.* And the council of Toulouse, in 1229, prohibited the erection of the new fortresses, or the entering into any leagues, except against the enemies of religion; and ordained that judges should administer justice gratuitously, and publish the decrees of the council four times in the year.†

The first unequivocal attempt, for it was nothing more, at general legislation, was under Louis VIII. in 1223, in an ordinance, which, like several of that age, relates to the condition and usurious dealings of the Jews. It is declared in the preamble to have been enacted, *per assensum archiepiscoporum, episcoporum, comitum, baronum, et militum regni Franciæ, qui Judæos habent, et qui Judæos non habent.* This recital is probably untrue, and intended to cloak the bold innovation contained in the last clause of the following provision: *Sciendum, quod nos et barones nostri statuimus et ordinavimus de statu Judæorum quod nullus nostrum alterius Judæos recipere potest vel retinere; et hoc intelligendum est tam de his qui stabilimentum juraverint, quàm de illis qui non juraverint.*‡ This was renewed with some alteration in 1230, *de communi consilio baronum nostrorum.*§

But whatever obedience the vassals of the crown might pay to this ordinance, their original exemption from legislative controul remained, as we have seen, unimpaired at the date of the Establishments of St. Louis, about 1269; and their ill-judged confidence in this feudal privilege still led them to absent themselves from the royal council. It seems impossible to doubt, that the barons of France might have asserted the same right, which those of England had obtained; that of being duly summoned by special writ, and

* Vaissette, Hist. de Languedoc, t. ii.
p. 6.

† Velly, t. iv. p. 132.

‡ Ordonnances des Rois, t. i. p. 47.

§ Id. p. 53.

thus have rendered their consent necessary to every measure of legislation. But the fortunes of France were different. The Establishments of St. Louis are declared to be made "par grand conseil de sages hommes et de bons clers," but no mention is made of any consent given by the barons; nor does it often, if ever, occur in subsequent ordinances of the French kings.

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The nobility did not long continue safe in their immunity from the king's legislative power. In the ensuing reign of Philip the Bold, Beaumanoir lays it down, though in very moderate and doubtful terms, that "when the king makes any ordinance specially for his own domains, the barons do not cease to act in their territories according to the ancient usage; but, when the ordinance is general, it ought to run through the whole kingdom, and we ought to believe that it is made with good advice, and for the common benefit."* In another place he says with more positiveness, that "the king is sovereign above all, and has of right the general custody of the realm, for which cause he may make what ordinances he pleases for the common good, and what he ordains ought to be observed; nor is there any one so great but may be drawn into the king's court for default of right or for false judgement, or in matters that affect the sovereign."† These latter words give us a clue to the solution of the problem, by what means an absolute monarchy was established in France. For though the barons would have been little influenced by the authority of a lawyer like Beaumanoir, they were much less able to resist the coercive logic of a judicial tribunal. It was in vain for them to deny the obligation of royal ordinances within their own domains, when they were compelled to acknowledge the jurisdiction of the parliament of Paris, which took a very different view of their privileges. This progress of the royal jurisdiction will fall under the next topic of inquiry, and is only now hinted at, as the probable means of confirming the absolute legislative power of the French crown.

Legislative
power of
the crown
increases.

Causes of
this.

* *Coûtumes de Beauvoisis*, c. 48.

† C. 34.

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The ultimate source however of this increased authority will be found in the commanding attitude assumed by the kings of France from the reign of Philip Augustus, and particularly in the annexation of the two great fiefs of Normandy and Toulouse. Though the châtelains and vavassors who had depended upon those fiefs before their re-union were, agreeably to the text of St. Louis's ordinance, fully sovereign, in respect of legislation, within their territories, yet they were little competent, and perhaps little disposed, to offer any opposition to the royal edicts; and the same relative superiority of force, which had given the first kings of the house of Capet a tolerably effective controul over the vassals dependent on Paris and Orleans, while they hardly pretended to any over Normandy and Toulouse, was now extended to the greater part of the kingdom. St. Louis, in his scrupulous moderation, forbore to avail himself of all the advantages presented by the circumstances of his reign; and his Establishments bear testimony to a state of political society, which, even at the moment of their promulgation, was passing away. The next thirty years after his death, with no marked crisis, and with little disturbance, silently demolished the feudal system, such as had been established in France during the dark confusion of the tenth century. Philip the Fair, by help of his lawyers and his financiers, found himself, at the beginning of the fourteenth century, the real master of his subjects.

Convoca-
tion of the
States Ge-
neral by
Philip the
Fair.

There was however one essential privilege which he could not hope to overturn by force, the immunity from taxation enjoyed by his barons. This, it will be remembered, embraced the whole extent of their fiefs, and their tenantry of every description; the king having no more right to impose a tallage upon the demesne towns of his vassals, than upon themselves. Thus his resources, in point of taxation, were limited to his own domains; including certainly, under Philip the Fair, many of the noblest cities in France, but by no means sufficient to meet his increasing necessities. We have seen already the expedients employed by this rapacious monarch; a shameless depreciation of the coin, and, what was much more justi-

fiable, the levying taxes within the territories of his vassals by their consent. Of these measures, the first was odious, the second slow and imperfect. Confiding in his sovereign authority, though recently, yet almost completely established, and little apprehensive of the feudal principles, already grown obsolete and discountenanced, he was bold enough to make an extraordinary innovation in the French constitution. This was the convocation of the States General, a representative body, composed of the three orders of the nation.*

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* It is almost unanimously agreed among French writers, that Philip the Fair first introduced a representation of the towns into his national assembly of States General. Nevertheless, the Chronicles of St. Denis, and other historians of rather a late date, assert that the deputies of towns were present at a parliament held in 1241, to advise the king what should be done in consequence of the count of Angouleme's refusal of homage. Boulainvilliers, *Hist. de l'Ancien Gouvernement de France*, t. ii. p. 20. Villaret, t. ix. p. 125. The latter pretends even that they may be traced a century further back: on voit déjà les gens de bonnes villes assister aux états de 1145. *Ibid.* But he quotes no authority for this; and his vague language does not justify us in supposing, that any representation of the three estates, properly so understood, did, or indeed could, take place in 1145, while the power of the aristocracy was unbroken, and very few towns had been incorporated. If it be true that the deputies of some royal towns were summoned to the parliament of 1241, the conclusion must not be inferred, that they possessed any consenting voice, nor perhaps that they formed, strictly speaking, an integral portion of the assembly. There is reason to believe, that deputies from the royal burghs of Scotland occasionally appeared at the bar of parliament, long before they had any deliberative voice. Pinkerton's *Hist. of Scotland*, vol. i. p. 371.

An ordinance of St. Louis, quoted in a very respectable book, *Vaissette's History of Languedoc*, t. iii. p. 480. but not published in the *Recueil des Ordonnances*, not only shews the existence, in one instance, of a

provincial legislative assembly, but is the earliest proof perhaps of the tiers état appearing as a constituent part of it. This relates to the seneschaussée, or county, of Beaucaire in Languedoc, and bears date in 1254. It provides, that if the seneschal shall think fit to prohibit the export of merchandize, he shall summon some of the prelates, barons, knights, and inhabitants of the chief towns, by whose advice he shall issue such prohibition, and not recall it, when made, without like advice. But though it is interesting to see the progressive importance of the citizens of towns, yet this temporary and insulated ordinance is not of itself sufficient to establish a constitutional right. Neither do we find therein any evidence of representation; it rather appears that the persons assisting in this assembly were *notables*, selected by the seneschal.

I am not aware of any instance of regular provincial states being summoned with such full powers, although it was very common in the fourteenth century to ask their consent to grants of money, when the court was unwilling to convoke the States General. But there is a passage in a book of considerable credit, the *Grand Customary*, or *Somme Rurale* of Bouteiller, which seems to render general the particular case of the seneschaussée of Beaucaire. Bouteiller wrote about the end of the fourteenth century. The great courts summoned from time to time by the baillis and seneschals were called *assises*. Their usual function was to administer justice, especially by way of appeal, and perhaps to redress abuses of inferior officers. But he seems to give them a more extended authority. *En assise*, he says, ap-

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They were first convened in 1302, in order to give more weight to the king's cause, in his great quarrel with Boniface VIII.; but their earliest grant of a subsidy is in 1314. Thus the nobility surrendered to the crown their last privilege of territorial independence; and having first submitted to its appellant jurisdiction over their tribunals, next to its legislative supremacy, now suffered their own dependants to become, as it were, immediate, and a Third Estate to rise up almost co-ordinate with themselves, endowed with new franchises, and bearing a new relation to the monarchy.

It is impossible not to perceive the motives of Philip in embodying the deputies of towns, as a separate estate in the national representation. He might, no question, have convoked a parliament of his barons, and obtained a pecuniary contribution which they would have levied upon their burgesses and other tenants. But besides the ulterior policy of diminishing the controul of the barons over their dependants, he had good reason to expect more liberal aid from the immediate representatives of the people, than through the concession of a dissatisfied aristocracy. He must be blind indeed, says Pasquier, who does not see that the roturier was expressly summoned to this assembly, contrary to the ancient institutions of France, for no other reason, than that, inasmuch as the burthen was intended to fall principally upon him, he might engage himself so far by promise, that he could not afterwards murmur or become refractory.* Nor would I deny the influence of more generous principles; the example of neighbouring countries, the respect due to the progressive civilization and opulence of the towns, and the application of that

pellés les sages et seigneurs du pais, peuvent estre mises sus nouvelles constitutions, et ordonnances sur le pais et destruites autre que seront grevables, *et en autre temps non*, et doivent estre publiées, afin que nul ne les pueust ignorer, et lors ne les peut ne doit jamais nul redarguer.—Mém. de l'Acad. des Inscriptions, t. xxx. p. 606.

The taille was assessed by respectable persons chosen by the advice of the parish priests and others, which gave the people a

sort of share in the *repartition*, to use a French term, of public burthens; a matter of no small importance, where a tax is levied on visible property. Ordonnances des Rois, p. 291. Beaumanoir, p. 269. This however continued, I believe, to be the practice in later times; I know it is so in the present system of France; and is perfectly distinguishable from a popular consent to taxation.

* Recherches de la France, l. ii. c. 7.

ancient maxim of the northern monarchies, that whoever was elevated to the perfect dignity of a freeman, acquired a claim to participate in the imposition of public tributes.

It is very difficult to ascertain the constitutional rights of the States General, claimed or admitted, during forty years after their first convocation. If indeed we could implicitly confide in an historian of the sixteenth century, who asserts that Louis Hutin bound himself and his successors not to levy any tax without the consent of the three estates, the problem would find its solution.* This ample charter does not appear in the French archives; and though by no means to be rejected on that account, when we consider the strong motive for its destruction, cannot fairly be adduced as an authentic fact. Nor can we altogether infer, perhaps, from the collection of ordinances, that the crown had ever intentionally divested itself of the right to impose tallages on its domanial tenants. All others, however, were certainly exempted from that prerogative; and there seems to have been a general sentiment, that no tax whatever could be levied without free consent of the estates.† Louis Hutin, in a charter granted to the nobles and burgesses of Picardy, promises to abolish the unjust taxes (maltotes) imposed by his father;‡ and in another instrument, called the charter of Normandy, declares that he renounces for himself and his successors all undue tallages and exactions, except in case of evident utility.§ This exception is doubtless of perilous ambiguity; yet as the charter was literally wrested from the king by an insurrectionary league, it might be expected that the same spirit would rebel against his royal interpretation of state-necessity. His successor, Philip the Long, tried the

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Rights of
the States
General as
to taxation.

* Boulainvilliers (*Hist. de l'Anc. Gouvernement*, t. ii. p. 128) refers for this to Nicolas Gilles, a chronicler of no great repute.

† Mably, *Observat. sur l'Hist. de France*, l. v. c. 1. is positive against the right of Philip the Fair and his successors to impose taxes. Montlosier (*Monarchie Française*,

t. i. p. 202.) is of the same opinion. In fact, there is reason to believe, that the kings in general did not claim that prerogative absolutely, whatever pretexts they might set up for occasional stretches of power.

‡ *Ordonnances des Rois*, t. i. p. 566.

§ *Idem*, t. i. p. 589.

CHAP. experiment of a gabelle, or excise upon salt. But it produced so
 II. much discontent, that he was compelled to assemble the States
 PART II. General, and to publish an ordinance declaring that the impost was
 FEUDAL not designed to be perpetual, and that, if a sufficient supply for the
 SYSTEM. existing war could be found elsewhere, it should instantly determine.*

Whether this was done, I do not discover; nor do I conceive, that any of the sons of Philip the Fair, inheriting much of his rapacity and ambition, abstained from extorting money without consent. Philip of Valois renewed and augmented the duties on salt by his own prerogative, nor had the abuse of debasing the current coin been ever carried to such a height as during his reign, and the first years of his successor. These exactions, aggravated by the smart of a hostile invasion, produced a very remarkable concussion in the government of France.

States General of
1355 and
1356.

I have been obliged to advert in another place to the memorable resistance made by the Estates General of 1355 and 1356 to the royal authority, on account of its inseparable connexion with the civil history of France.† In the present chapter, the assumption of political influence by those assemblies deserves particular notice. Not that they ever pretended to restore the ancient constitution of the Northern nations, still flourishing in Spain and England, the participation of legislative power with the crown. Five hundred years of anarchy and ignorance had swept away all remembrance of those general diets, in which the capitularies of the Carolingian dynasty had been established by common consent. Charlemagne himself was hardly known to the French of the fourteenth century, except as the hero of some silly romance or ballad. The States General remonstrated indeed against abuses, and especially the most flagrant of all, the adulteration of money; but the ordinance granting redress emanated altogether from the king, and without the least reference to their consent, which sometimes appears to be studiously

* Ordonnances des Rois, t. i. p. 679. † Chap. i. p. 53.

omitted.* But the privilege upon which the States under John solely relied for securing the redress of grievances, was that of granting money, and of regulating its collection. The latter, indeed, though for convenience it may be devolved upon the executive government, appears to be incident to every assembly in which the right of taxation resides. That accordingly, which met in 1355, nominated a committee chosen out of the three orders, which was to sit after their separation, and which the king bound himself to consult, not only as to the internal arrangements of his administration, but upon every proposition of peace or armistice with England. Deputies were dispatched into each district, to superintend the collection, and receive the produce of the subsidy granted by the States.† These assumptions of power would not long, we may be certain, have left the sole authority of legislation in the king, and might perhaps be censured as usurpation, if the peculiar emergency in which France was then placed did not furnish their defence. But, if it be true that the kingdom was reduced to the utmost danger and exhaustion, as much by malversation of its government, as by the armies of Edward III., who shall deny to its representatives the rights of ultimate sovereignty, and of suspending at least the royal prerogatives, by the abuse of which they were falling into destruction?‡ I confess that it is exceedingly difficult, or perhaps impracticable, with such information as we possess, to decide upon the

* The proceedings of States General held under Philip IV. and his sons have left no trace in the French statute-book. Two ordinances alone out of some hundred enacted by Philip of Valois appear to have been founded upon their suggestions.

It is absolutely certain, that the States General of France had, at no period and in no instance, a co-ordinate legislative authority with the crown, or even a consenting voice. Mably, Boulainvilliers, and Montlosier, are as decisive on this subject, as the most courtly writers of that country. It follows as a just consequence, that France never possessed a free constitution; nor had the monarchy any limitations in respect of

enacting laws, save those which, until the reign of Philip the Fair, the feudal principles had imposed.

† Ordonnances des Rois, t. iii. p. 21. and préface, p. 42. This preface by M. Sécouse, the editor, gives a very clear view of the general and provincial assemblies held in the reign of John. Boulainvilliers, *Hist. de l'Ancien Gouvernement de France*, t. ii. or Villaret, t. ix. may be perused with advantage.

‡ The second continuator of Nangis in the *Spicilegium* dwells on the heavy taxes, diminution of money, and general oppressiveness of government in this age. t. iii. p. 108.

CHAP. motives and conduct of the States General, in their several meetings
 II. before and after the battle of Poitiers. Arbitrary power prevailed;
 PART II. and its opponents became of course the theme of obloquy with
 FEUDAL modern historians. Froissart, however, does not seem to impute any
 SYSTEM. fault to these famous assemblies of the States General; and still less
 a more contemporary historian, the anonymous continuator of
 Nangis. Their notices, however, are very slight; and our chief
 knowledge of the parliamentary history of France, if I may apply the
 expression, must be collected from the royal ordinances made upon
 these occasions, or from unpublished accounts of their transactions.
 Some of these, which are quoted by the later French historians, are
 of course inaccessible to a writer in this country. But a manuscript
 in the British Museum, containing the early proceedings of that
 assembly which met in October 1356, immediately after the battle
 of Poitiers, by no means leads to an unfavourable estimate of its
 intentions.* The tone of their representations to the Duke of Nor-
 mandy (Charles V., not then called Dauphin) is full of loyal respect;
 their complaints of bad administration, though strong and pointed,
 not outrageous; their offers of subsidy liberal. The necessity of
 restoring the coin is strongly represented, as the grand condition
 upon which they consent to tax the people, who had been long
 defrauded by the base money of Philip the Fair and his successors.†

* Cotton MSS. Titus, t. xii. fol. 58—
 74. This manuscript is noticed, as an im-
 portant document, in the preface to the third
 volume of *Ordonnances*, p. 48. by M. Sé-
 couisse, who had found it mentioned in the
Bibliothèque Historique of Le Long, No.
 11242. No French antiquary appears, at
 least before that time, to have seen it; but
 Boulainvilliers conjectured that it related to
 the assembly of States in February 1356,
 (1357) and M. Sécouisse supposed it rather to
 be the original journal of the preceding meet-
 ing in October 1356, from which a copy,
 found among the manuscripts of Dupuy, and
 frequently referred to by Sécouisse himself in
 his preface, had been taken. M. Sécouisse
 was perfectly right in supposing the manu-

script in question to relate to the proceed-
 ings of October, and not of February; but
 it is not an original instrument. It forms
 part of a small volume written on vellum
 and containing several other treatises. It
 seems, however, as far as I can judge, to be
 another copy of the account which Dupuy
 possessed, and which Sécouisse so often
 quotes, under the name of *Procès-verbal*.

† Et estoit et est l'entente de ceulx qui a
 la ditte convocation estoient que quelconque
 ottroy ou ayde qu'ils feissent, ils eussent
 bonne monnoye et estable selon l'advis des
 trois estats—et que les chartres et lettres
 faites pour les reformatiōns du royaume par
 le roy Philippe le bel, et toutes celles qui
 furent faites par le roy notre seigneur qui

But whatever opportunity might now be afforded for establishing a just and free constitution in France was entirely lost. Charles, inexperienced and surrounded by evil counsellors, thought the States General inclined to encroach upon his rights, of which, in the best part of his life, he was always abundantly careful. He dismissed therefore the assembly, and had recourse to the easy but ruinous expedient of debasing the coin. This led to seditions at Paris, by which his authority and even his life were endangered. In February 1357, three months after the last meeting had been dissolved, he was obliged to convoke the States again, and to enact an ordinance conformable to the petitions tendered by the former assembly.* This contained many excellent provisions, both for the redress of abuses, and the vigorous prosecution of the war against Edward; and it is difficult to conceive, that men who advised measures so conducive to the public weal could have been the blind instruments of the king of Navarre. But this, as I have already observed, is a problem in history that we cannot hope to resolve. It appears, however, that in a few weeks after the promulgation of this ordinance, the proceedings of the reformers fell into discredit, and their commission of thirty-six, to whom the collection of the new subsidy, the redress of grievances, and, in fact, the whole administration of government had been entrusted, became unpopular. The subsidy produced much less than they had led the people to expect; briefly, the usual consequence of democratical emotions in a monarchy took place. Disappointed by the failure of hopes unreasonably entertained, and

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SYSTEM.Troubles at
Paris.

1357

est a present fussent confirmées enterinées tenues et gardees de point en point; et toutes les aides quelconques qui faites soient fussent recues et distribuées par ceulx qui soient a ce commis par les trois estats, et autorisées par M. le Duc et sur certaines autres conditions et modifications justes et raisonnables et prouffitables et semble que ceste aide eust été moult grant et moult prouffitable, et trop plus que aides de fait de monnoye. Car elle se feroit de volonté du peuple et consentement commun selon Dieu et selon conscience: Et le prouffit

que on prent et veult on prendre sur le fait de la monnoye duquel on veult faire le fait de la guerre, et ce soit a la destruction et a esté au temps passé du roy et du royaume et des subjets; Et si se destruit le billon tant par fontures et blanchis comme autrement, ne le fait ne peust durer longuement qu' il ne vienne a destruction si on continue longuement; Et si est tout certain que les gens d'armes ne voudroient estre contens de leurs gaiges par foible monnoye, &c.

† Ordonnances des Rois, t. iii. p. 121.

CHAP. improvidently encouraged, and disgusted by the excesses of the
 II. violent demagogues, the nation, especially its privileged classes, who
 PART II. seem to have concurred in the original proceedings of the States
 FEUDAL SYSTEM. General, attached themselves to the party of Charles, and enabled
 him to quell opposition by force.* Marcel, provost of the traders,
 a municipal magistrate of Paris, detected in the overt execution of a
 traiterous conspiracy with the king of Navarre, was put to death by
 a private hand. Whatever there had been of real patriotism in the
 States General, artfully confounded, according to the practice of
 courts, with these schemes of disaffected men, suffered in the common
 obloquy; whatever substantial reforms had been projected, the
 government threw aside as seditious innovations. Charles, who had
 assumed the title of regent, found in the States General assembled at
 Paris in 1359 a very different disposition from that their predecessors
 had displayed, and publicly restored all the counsellors, whom in
 the former troubles he had been compelled to discard. Thus the
 monarchy re-settled itself on its ancient basis; or, more properly,
 acquired additional stability.

Taxes im-
 posed by
 John and
 Charles V.

Remedial
 ordinance of
 Charles VI.

1380

Both John, after the peace of Bretigni, and Charles V. imposed
 taxes without consent of the States General.† The latter indeed
 hardly ever convoked that assembly. Upon his death the con-
 tention between the crown and representative body was renewed,
 and in the first meeting held after the accession of Charles VI. the
 government was compelled to revoke all taxes illegally imposed
 since the reign of Philip IV. This is the most remedial ordinance,
 perhaps, in the history of French legislation. We will, ordain, and
 grant, says the king, "that the aids, subsidies and impositions of
 whatever kind, and however imposed, that have had course in the

* *Discordiâ motâ, illi tres status ab in-
 cepto proposito cessaverunt. Ex tunc enim
 regni negotia male ire, &c.* Continuator
 Gul. de Nangis in *Spicilegio*, t. iii. p. 115.

A very full account of these transactions
 is given by Sécouse, in his history of Charles
 the Bad, p. 107. and in his preface to the
 third volume of the *Ordonnances des Rois*.

The reader must make allowance for the
 usual partialities of a French historian,
 where an opposition to the reigning prince
 is his subject. A contrary bias is manifested
 by Boulainvilliers and Mably, whom how-
 ever it is well worth while to hear.

† Mably, l. v. c. 5. note 5.

realm since the reign of our predecessor Philip the Fair, shall be repealed and abolished; and we will and decree, that by the course which the said impositions have had, we or our successors shall not have acquired any right, nor shall any prejudice be wrought to our people, nor to their privileges and liberties, which shall be re-established in as full a manner as they enjoyed them in the reign of Philip the Fair, or at any time since; and we will and decree, that if any thing has been done contrary to them since that time to the present hour, neither we nor our successors shall take any advantage therefrom.* If circumstances had turned out favourably for the cause of liberty, this ordinance might have been the basis of a free constitution, in respect at least of immunity from arbitrary taxation. But the coercive measures of the court and tumultuous spirit of the Parisians produced an open quarrel, in which the popular party met with a decisive failure.

It seems indeed impossible, that a number of deputies elected merely for the purpose of granting money can possess that weight, or be invested in the eyes of their constituents with that awefulness of station, which is required to withstand the royal authority. The States General had no right of redressing abuses, except by petition; no share in the exercise of sovereignty, which is inseparable from the legislative power. Hence, even in their proper department of imposing taxes, they were supposed incapable of binding their constituents without their specific assent. Whether it were the timidity of the deputies, or false notions of freedom, which produced this doctrine, it was evidently repugnant to the stability and dignity of a representative assembly. Nor was it less ruinous in practice than mistaken in theory. For as the necessary subsidies, after being provisionally granted by the States, were often rejected by their electors, the king found a reasonable pretence for dis-

* Ordonnances des Rois, t. vi. p. 564. The ordinance is long, containing frequent repetitions, and a great surplusage of words,

intended to give more force, or at least solemnity.

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SYSTEM.States Ge-
neral under
Charles VII.

CHAP. II. pen- sioning with the concurrence of his subjects, when he levied contri-
butions upon them.

The States General were convoked but rarely under Charles VI. and VII. both of whom levied money without their concurrence. Yet there are remarkable testimonies under the latter of these princes, that the sanction of national representatives was still esteemed strictly requisite to any ordinance imposing a general tax, however the emergency of circumstances might excuse a more arbitrary procedure. Thus Charles VII. in 1436, declares that he has set up again the aids which had been previously abolished, *by the consent of the three estates*.* And in the important edict establishing the companies of ordonnance, which is recited to be done by the advice and counsel of the States General assembled at Orleans, the forty-first section appears to bear a necessary construction, that no tallage could lawfully be imposed without such consent.† It is maintained indeed by some writers, that the perpetual taille established about the same time was actually granted by these States of 1439, though it does not so appear upon the face of any ordinance.‡ And certainly this is consonant to the real and recognized constitution of that age.

Provincial
states.

But the crafty politics of courts in the fifteenth century, enlightened by experience of past dangers, were averse to encountering these great political masses, from which there were, even in peaceful times, some disquieting interference, some testimonies of public spirit and recollections of liberty to apprehend. The kings of France indeed had a resource, which generally enabled them to avoid a convocation of the States General, without violating the national franchises. From provincial assemblies, composed of the three orders, they usually obtained more money than they could have extracted from the common representatives of the nation, and

* Ordonnances des Rois, t. xiii. p. 211.

† Id. p. 312. Boulainvilliers mentions other instances, where the States granted money during this reign. t. iii. p. 70.

‡ Bréquigny, préface au treizième tome des Ordonnances. Boulainvilliers, t. iii. p. 108.

heard less of remonstrance and demand.* Languedoc in particular had her own assembly of states, and was rarely called upon to send deputies to the general body, or representatives of what was called the Languedoil. But Auvergne, Normandy, and other provinces belonging to the latter division, had frequent convocations of their respective estates during the intervals of the States General; intervals, which by this means were protracted far beyond that duration to which the exigencies of the crown would otherwise have confined them.† This was one of the essential differences between the constitutions of France and England, and arose out of the original disease of the former monarchy, the distraction and want of unity, consequent upon the decline of Charlemagne's family, which separated the different provinces in respect of their interests and domestic government from each other.

But the formality of consent, whether by general or provincial states, now ceased to be reckoned indispensable. The lawyers had rarely seconded any efforts to restrain arbitrary power; in their hatred of feudal principles, especially those of territorial jurisdiction, every generous sentiment of freedom was proscribed; or if they admitted that absolute prerogative might require some checks, it was such only as themselves, not the national representatives, should impose. Charles VII. levied money by his own authority. Louis XI. carried this encroachment to the highest pitch of exaction. It was the boast of courtiers, that he first released the kings of France from dependance, (*hors de page*); or, in other words, that he effectually demolished those barriers, which, however imperfect and ill-placed, had opposed some impediment to the establishment of despotism.‡

* Villaret, t. xi. p. 270.

† Ordonnances des Rois, t. iii. préface.

‡ The preface to the sixteenth volume of Ordonnances, before quoted, displays a lamentable picture of the internal situation of France in consequence of excessive taxation, and other abuses. These evils, in a less aggravated degree, continued ever since to

retard the improvement, and diminish the intrinsic prosperity, of a country so extraordinarily endowed with natural advantages. Philip de Comines was forcibly struck with the different situation of England and the Netherlands. And Sir John Fortescue has a remarkable passage on the poverty and servitude of the French commons, contrasted

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The exactions of Louis, however, though borne with patience, did not pass for legal with those upon whom they pressed. Men still remembered their ancient privileges, which they might see with mortification well preserved in England. "There is no monarch or lord upon earth, (says Philip de Comines, himself bred in courts,) who can raise a farthing upon his subjects, beyond his own domains, without their free concession, except through tyranny and violence. It may be objected that in some cases there may not be time to assemble them, and that war will bear no delay ; but I reply, (he proceeds,) that such haste ought not to be made, and there will be time enough ; and I tell you, that princes are more powerful, and more dreaded by their enemies, when they undertake any thing with the consent of their subjects."*

States General of
Tours in
1484.

The States General met but twice during the reign of Louis XI. and on neither occasion for the purpose of granting money. But an assembly in the first year of Charles VIII., the States of Tours in 1484, is too important to be overlooked, as it marks the last struggle of the French nation by its legal representatives for immunity from arbitrary taxation.

A warm contention arose for the regency, upon the accession of Charles VIII. between his aunt Anne de Beaujeu, whom the late king had appointed by testament, and the princes of the blood, at the head of whom stood the duke of Orleans, afterwards Louis XII. The latter combined to demand a convocation of the States General, which accordingly took place. The king's minority and the factions at court seemed no unfavourable omens for liberty. But a scheme was artfully contrived, which had the most direct tendency to break the force of a popular assembly. The deputies were classed in six nations, who debated in separate chambers, and consulted each other only upon the result of their respective deliberations. It was easy for the court to foment the jealousies natural to

with English freemen. Difference of limited and absolute monarchy, p. 17.

* Mem. de Comines, l. iv. c. 19.

such a partition. Two nations, the Norman and Burgundian, asserted that the right of providing for the regency devolved, in the king's minority, upon the States General, a claim of great boldness, and certainly not much founded upon precedents. In virtue of this, they proposed to form a council, not only of the princes, but of certain deputies to be elected by the six nations who composed the States. But the other four, those of Paris, Aquitaine, Languedoc, and Languedoil, (which last comprized the central provinces,) rejected this plan, from which the two former ultimately desisted, and the choice of counsellors was left to the princes.

A firmer and more unanimous spirit was displayed upon the subject of public reformation. The tyranny of Louis XI. had been so unbounded, that all ranks agreed in calling for redress, and the new governors were desirous, at least by punishing his favourites, to shew their inclination towards a change of system. They were very far, however, from approving the propositions of the States General. These went to points which no court can bear to feel touched, though there is seldom any other mode of redressing public abuses; the profuse expense of the royal household, the number of pensions and improvident grants, the excessive establishment of troops. The States explicitly demanded that the taille and all other arbitrary imposts should be abolished; and that from thenceforward, "according to the natural liberty of France," no tax should be levied in the kingdom without the consent of the States. It was with great difficulty, and through the skilful management of the court, that they consented to the collection of the taxes payable in the time of Charles VII. with the addition of one fourth, as a gift to the king upon his accession. This subsidy they declare to be granted "by way of gift and concession, and not otherwise, and so as no one should from thenceforward call it a tax, but a gift and concession." And this was only to be in force for two years, after which they stipulated that another meeting should be convoked. But it was little likely that the government would encounter such a risk; and the princes, whose factious views the States had by no means

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CHAP. seconded, felt no temptation to urge again their convocation. No
 II. assembly in the annals of France seems, notwithstanding some
 PART II. party selfishness arising out of the division into nations, to have
 FEUDAL conducted itself with so much public spirit and moderation; nor
 SYSTEM. had that country perhaps ever so fair a prospect of establishing a
 legitimate constitution.*

Successive
 changes in
 the judicial
 polity of
 France.

Original
 scheme of
 jurisdiction.

V. The right of jurisdiction has undergone changes in France and in the adjacent countries, still more remarkable than those of the legislative power; and passed through three very distinct stages, as the popular, aristocratic, or regal influence predominated in the political system. The Franks, Lombards and Saxons seem alike to have been jealous of judicial authority; and averse to surrendering what concerned every man's private right, out of the hands of his neighbours and his equals. Every ten families are supposed to have had a magistrate of their own election; the tything-man of England, the decanus of France and Lombardy.† Next in order was the Centenarius or Hundredary, whose name expresses the extent of his jurisdiction, and who, like the Decanus, was chosen by those subject to it.‡ But the authority of these petty magistrates was gradually confined to the less important subjects of legal inquiry. No man, by a capitulary of Charlemagne, could be impleaded for his life, or liberty, or lands, or servants in the hundred court.§ In such weighty matters, or by way of appeal from the lower jurisdictions, the count of the district was judge. He indeed was appointed by the sovereign; but his power was checked by

* I am altogether indebted to Garnier for the proceedings of the States of Tours. His account, *Hist. de France*, t. xviii. p. 154—348. is extremely copious, and derived from a manuscript journal. Comines alludes to them sometimes, but with little particularity.

† The Decanus is mentioned by a writer of the ninth age as the lowest species of judge, immediately under the Centenarius. The latter is compared to the Plebanus, or priest of a church, where baptism was performed, and the former to an inferior pres-

byter. Du Cange, v. Decanus; and Muratori, *Antiq. Ital. Dissert.* x.

‡ It is evident from the Capitularies of Charlemagne, Baluze, t. i. p. 426 and 466. that the Centenarii were elected by the people; that is, I suppose, the free-holders.

§ *Ut nullus homo in placito centenarii neque ad mortem, neque ad libertatem suam amittendam, aut ad res reddendas vel mancipia judicetur. Sed ista aut in præsentiâ comitis vel missorum nostrorum judicentur.* Capit. A. D. 812. Baluz. p. 497.

assessors, called Scabini, who held their office by the election, or at least the concurrence, of the people.* These Scabini may be considered as a sort of jury, though bearing a closer analogy to the Judices Selecti, who sat with the Prætor in the tribunals of Rome. An ultimate appeal seems to have lain to the Count Palatine, an officer of the royal household; and sometimes causes were decided by the sovereign himself.† Such was the original model of judicature; but as complaints of injustice and neglect were frequently made against the counts, Charlemagne, desirous on every account to controul them, appointed special judges, called Missi Regii, who held assizes from place to place, inquired into abuses and maladministration of justice, enforced its execution, and expelled inferior judges from their offices for misconduct.‡

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This judicial system was gradually superseded by one founded upon totally opposite principles, those of feudal privilege. It is difficult to ascertain the progress of territorial jurisdiction. In many early charters of the French kings, beginning with one of Dagobert I. in 630, we find inserted in their grants of land an immunity from the entrance of the ordinary judges, either to hear causes, or to exact certain dues accruing to the king and to themselves. These charters indeed relate to church lands, which, as it seems implied by a law of Charlemagne, universally possessed an exemption from ordinary jurisdiction. A precedent, however, in Marculfus leads us to infer a

Territorial
jurisdiction.

* Baluzii Capitularia, p. 466. Muratori, Dissert. 10. Du Cange, v. Scabini. These Scabini, sometimes called Rachimbürgii, may be traced by the light of charters down to the eleventh century. Recueil des Historiens, t. xi. préface, p. 186. There is, in particular, a decisive proof of their existence in 918, in a record which I have already had occasion to quote. Vaissette, Hist. de Languedoc, t. ii. Appendix, p. 56.

† Du Cange, Dissertation 14. sur Joinville; and Glossary, v. Comites Palatini; Mém. de l'Acad. des Inscript. t. xxx. p. 590. Louis the Debonair gave one day in every week to hearing causes; but his subjects were required not to have recourse to

him, unless where the Missi or the counts had not done justice. Baluze, t. i. p. 668. Charles the Bald expressly reserves an appeal to himself from the inferior tribunals. Capit. 869. t. ii. p. 215. In his reign, there was at least a claim to sovereignty preserved.

‡ For the jurisdiction of the Missi Regii, besides the Capitularies themselves, see Muratori's eighth Dissertation. They went their circuits four times a year. Capitul. A. D. 812. A. D. 823. A vestige of this institution long continued in the province of Auvergne, under the name Grands Jours d'Auvergne; which Louis XI. revived in 1479. Garnier, Hist. de France, t. xviii. p. 458.

CHAP. II. PART II. FEUDAL SYSTEM. similar immunity to have been usual in gifts to private persons.* These rights of justice in the beneficiary tenants of the crown are attested in several passages of the capitularies. And a charter of Louis I. to a private individual contains a full and exclusive concession of jurisdiction over all persons resident within the territory, though subject to the appellant controul of the royal tribunals.† It is obvious, indeed, that an exemption from the regular judicial authorities implied or naturally led to a right of administering justice in their place. But this could at first hardly extend beyond the tributaries or villeins who cultivated their master's soil, or, at most, to free persons without property, resident in the territory. To determine their quarrels, or chastise their offences, was no very illustrious privilege. An alodial freeholder could own no jurisdiction but that of the king. It was the general prevalence of sub-infeudation, which gave importance to the territorial jurisdictions of the nobility. For now the military tenants, instead of repairing to the county-court, sought justice in that of their immediate lord; or rather the count himself, become the suzerain instead of the governor of his district, altered the form of his tribunal upon the feudal model.‡ A system of procedure so congenial to the spirit of the age spread universally over France and Germany. The tribunals of the king were forgotten like his laws; the one retaining as little authority to correct, as the other to regulate, the decisions of a territorial judge. The rules of evidence were superseded by that monstrous birth of ferocity and

* Marculfi Formulæ, l. i. c. 17.

† Et nullus comes, nec vicarius, nec juniores eorum, nec ullus judex publicus illorum homines, qui super illorum aprisione habitant, aut in illorum proprio, distringere nec judicare præsumant; sed Johannes et filii sui, et posteritas illorum, illi eos judicent et distringant. Et quicquid per legem judicaverint, stabilis permaneat. Et si extra legem fecerint, per legem emendent. Baluzii Capitularia, t. ii. p. 1405.

This appellant controul was preserved by the capitulary of Charles the Bald, quoted already, over the territorial, as well as royal

tribunals. Si aliquis episcopus, vel comes ac vassus noster suo homini contra rectum et justitiam fecerit, et si inde ad nos reclamaverit, sciat quia, sicut ratio et lex est, hoc emendare faciemus.

‡ We may perhaps infer, from a capitulary of Charlemagne in 809, that the feudal tenants were already employed as assessors in the administration of justice, concurrently with the Scabini, or Rachinburgii mentioned above. Ut nullus ad placitum venire cogatur, nisi qui causam habet ad quærendum, exceptis scabinis et vassallis comitum. Baluz. Capitularia, t. i. p. 465.

superstition, the judicial combat, and the maxims of law reduced to a few capricious customs, which varied in almost every barony.

These rights of administering justice were possessed by the owners of fiefs in very different degrees; and, in France, were divided into the high, the middle, and the low jurisdiction.* The first species alone (*la haute justice*) conveyed the power of life and death; it was inherent in the baron and the châtelain, and sometimes enjoyed by the simple vavassor. The lower jurisdictions were not competent to judge in capital cases, and consequently forced to send such criminals to the court of the superior. But in some places, a thief taken in the fact might be punished with death by a lord who had only the low jurisdiction. In England, this privilege was known by the uncouth terms of *Infangthef* and *Outfangthef*. The high jurisdiction, however, was not very common in this country, except in the chartered towns.†

Several customs rendered these rights of jurisdiction far less instrumental to tyranny than we might infer from their extent. While the counts were yet officers of the crown, they frequently appointed a deputy, or viscount, to administer justice. Ecclesiastical lords, who were prohibited by the canons from inflicting capital punishment, and supposed to be unacquainted with the law followed in civil courts, or unable to enforce it, had an officer by name of advocate, or vidame, whose tenure was often feudal and hereditary. The *viguiers* (*vicarii*), bailiffs, provosts, and seneschals of lay lords were similar ministers, though not in general of so permanent a right in

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Its divisions

Its adminis-
tration.

* Velly, t. vi. p. 131. Denisart, Houard, and other law-books.

† A strangely cruel privilege was possessed in Aragon by the lords who had not the higher jurisdiction, and consequently could not publicly execute a criminal; that of starving him to death in prison. This was established by law in 1247. *Si vassallus domini non habentis merum nec mixtum imperium, in loco occiderit vassallum, dominus loci potest eum occidere fame, frigore et siti. Et quilibet dominus loci habet hanc*

jurisdictionem necandi fame, frigore et siti in suo loco, licet nullam aliam jurisdictionem criminalem habeat. Du Cange, voc. Fame necare.

It is remarkable, that the Neapolitan barons had no criminal jurisdiction, at least of the higher kind, till the reign of Alfonso, in 1443, who sold this destructive privilege, at a time when it was almost abolished in other kingdoms. Giannone, l. xxii. c. 5. and l. xxvi. c. 6.

CHAP. II. PART II. FEUDAL SYSTEM. their offices, or of such eminent station as the advocates of monasteries. It seems to have been an established maxim, though perhaps only in later times, that the lord could not sit personally in judgement, but must entrust that function to his bailiff and vassals.* According to the feudal rules, the lord's vassals or peers of his court were to assist at all its proceedings. "There are some places, says Beaumanoir, where the bailiff decides in judgement, and others, where the vassals of the lord decide. But even where the bailiff is the judge, he ought to advise with the most prudent, and determine by their advice; since thus he shall be most secure if an appeal is made from his judgement."† And indeed the presence of these assessors was so essential to all territorial jurisdiction, that no lord, to whatever rights of justice his fief might intitle him, was qualified to exercise them, unless he had at least two vassals to sit as peers in his court.‡

Trial by combat.

These courts of a feudal barony or manor required neither the knowledge of positive law, nor the dictates of natural sagacity. In all doubtful cases, and especially where a crime not capable of notorious proof was charged, the combat was awarded; and God, as they deemed, was the judge.§ The nobleman fought on horseback,

* Boutillier, in his *Somme Rurale*, written near the end of the fourteenth century, asserts this positively. Il convient quilz facent jugier par aultre que par eulx, cest a savoir par leurs hommes feudaulx a leur semonce et *conjuré*[?] ou de leur bailiff ou lieutenant, et ont ressort a leur souverain. fol. 3.

† *Coûtumes de Beauvoisis*, p. 11.

‡ It was lawful, in such case, to borrow the vassals of the superior lord. Thaumassière sur Beaumanoir, p. 375. See Du Cange, v. Pares; an excellent article, and *Placitum*.

In England, a manor is extinguished, at least as to jurisdiction, when there are not two freeholders subject to escheat left as suitors to the court-baron. Their tenancy must therefore have been created before the statute of *Quia emptores*, 18 Edw. I. since which no new estate in fee simple can be

held of the lord, nor, consequently, be liable to escheat to him.

§ Trial by combat does not seem to have established itself completely in France, till ordeals went into disuse, which Charlemagne rather encouraged, and which, in his age, the clergy for the most part approved. The former species of decision may however be met with under the first Merovingian kings, (Greg. Turon. l. vii. c. 19. l. x. c. 10.) and seems to have prevailed in Burgundy. It is established by the laws of the Alemanni or Swabians. Baluz. t. i. p. 80. It was always popular in Lombardy. Luitprand, king of the Lombards, says in one of his laws: *Incerti sumus de judicio Dei, et quosdam audivimus per pugnam sine justâ causâ suam causam perdere. Sed propter consuetudinem gentis nostræ Langobardorum legem impiam vetare non possumus.* Muratori,

with all his arms of attack and defence ; the plebeian on foot, with his club and target. The same were the weapons of the champions, to whom women and ecclesiastics were permitted to entrust their rights.* If the combat was intended to ascertain a civil right, the vanquished party of course forfeited his claim, and paid a fine. If he fought by proxy, the champion was liable to have his hand struck off ; a regulation necessary perhaps to obviate the corruption of these hired defenders. In criminal cases, the appellant suffered, in the event of defeat, the same punishment which the law awarded to the offence of which he accused his adversary.† Even where the cause was more peaceably tried, and brought to a regular adjudication by the court, an appeal for false judgement might indeed be made to the suzerain, but it could only be tried by battle.‡ And in this, the appellant, if he would impeach the concurrent judgement of the court below, was compelled to meet successively in combat every one of its members ; unless he should vanquish them all within the day, his life, if he escaped from so many hazards, was forfeited to the law. If fortune or miracle should make him conqueror in every contest, the judges were equally subject to death, and their court forfeited their jurisdiction for ever. A less perilous mode of appeal was to call the first judge who pronounced a hostile sentence into the field. If the appellant came off victorious in this challenge, the decision was reversed, but the court was not impeached.§ But for denial of justice, that is, for a refusal to try his suit, the plaintiff repaired to the court of the next superior lord, and supported his appeal by testimony.|| Yet, even here, the witnesses might be defied,

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Script. Rerum Italicarum, t. ii. p. 65. Otho II. established it in all disputes concerning real property ; and there is a famous case, where the right of representation, or preference of the son of a deceased elder child to his uncle in succession to his grandfather's estate, was settled by this test.

* For the ceremonies of trial by combat, see Houard, *Anciennes Loix Françaises*, t. i. p. 264. Velly, t. vi. p. 106. *Recueil des Historiens*, t. xi. préface, p. 189. Du Cange,

v. Duellum. The great original authorities are the *Assises de Jérusalem*, c. 104. and *Beaumanoir*, c. 31.

† *Beaumanoir*, p. 315.

‡ *Idem*, c. 61. In England the appeal for false judgement to the king's court was not tried by battle. *Glanvil*, l. xii. c. 7.

§ *Idem*, c. 61.

|| *Id.* p. 315. The practice was to challenge the *second* witness, since the testimony of one was insufficient. But this must be

CHAP. II. and the pure stream of justice turned at once into the torrent of barbarous contest.*

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Establish-
ments of St.
Louis.

Such was the judicial system of France, when St. Louis enacted that great code, which bears the name of his Establishments. The rules of civil and criminal procedure, as well as the principles of legal decisions, are there laid down with much detail. But that incomparable prince, unable to overthrow the judicial combat, confined himself to discouraging it by the example of a wiser jurisprudence. It was abolished throughout the royal domains. The bailiffs and seneschals who rendered justice to the king's immediate subjects were bound to follow his own laws. He not only received appeals from their sentences in his own court of peers, but listened to all complaints with a kind of patriarchal simplicity. "Many times, says Joinville, I have seen the good Saint, after hearing mass in the summer season, lay himself at the foot of an oak in the wood of Vincennes, and make us all sit round him ; when those who would,

done before he completes his oath, says Beaumanoir, for after he has been sworn, he must be heard and believed. p. 316. No one was bound, as we may well believe, to be a witness for another, in cases where such an appeal might be made from his testimony.

* Mably is certainly mistaken in his opinion, that appeals for denial of justice were not older than the reign of Philip Augustus. (*Observations sur l'Hist. de F. l. iii. c. 5.*) Before this time, the vassal's remedy, he thinks, was to make war upon his lord. And this may probably have been frequently practised. Indeed it is permitted, as we have seen, by the code of St. Louis. But those who were not strong enough to adopt this dangerous means of redress, would surely avail themselves of the assistance of the suzerain, which in general would be readily afforded. We find several instances of the king's interference for the redress of injuries in Suger's life of Louis VI. That active and spirited prince, with the assistance of his still more illustrious biographer, recovered a great part of the royal authority, which had been reduced to the lowest ebb

in the long and slothful reign of his father, Philip I. One passage, especially, contains a clear evidence of the appeal for denial of justice, and consequently refutes Mably's opinion. In 1105, the inhabitants of St. Sévere, in Berri, complain of their lord Humbald, and request the king *aut ad exequendam justitiam cogere, aut jure pro injuriâ castrum lege Salicâ amittere*. I quote from the preface to the fourteenth volume of the *Recueil des Historiens*, p. 44. It may be noticed by the way, that *lex Salica* is here used for the feudal customs ; in which sense I believe it not unfrequently occurs. Many proofs might be brought of the interposition of both Louis VI. and VII. in the disputes between their barons and arriere vassals. Thus the war between the latter and Henry II. of England, in 1166, was occasioned by his entertaining a complaint from the count of Auvergne, without waiting for the decision of Henry, as duke of Guienne. Velly, t. iii. p. 190. Lyttleton's *Henry II.* vol. ii. p. 448. *Recueil des Historiens*, ubi supra. p. 49.

came and spake to him, without let of any officer, and he would ask aloud if there were any present who had suits, and when they appeared, would bid two of his bailiffs determine their causes upon the spot."*

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The influence of this new jurisprudence established by St. Louis, combined with the great enhancement of the royal prerogatives in every other respect, produced a rapid change in the legal administration of France. Though trial by combat occupies a considerable space in the work of Beaumanoir, written under Philip the Bold, it was already much limited. Appeals for false judgement might sometimes be tried, as he expresses it, *par erremens de plait*, that is, I presume, where the alledged error of the court below was in matter of law. For wager of battle was chiefly intended to ascertain controverted facts.† So where the suzerain saw clearly that the judgement of the inferior court was right, he ought not to permit the combat. Or if the plaintiff, even in the first instance, could produce a record or a written obligation; or if the fact before the court was notorious, there was no room for battle.‡ It would be a hard thing, says Beaumanoir, that if one had killed my near relation in open day before many credible persons, I should be compelled to fight in order to prove his death. This reflection is the dictate of common sense, and shews that the prejudice in favour of judicial combat was dying away. In the Assises de Jérusalem, a monument of customs two hundred years earlier than the age of Beaumanoir, we find little mention of any other mode of decision. The compiler of that book thinks it would be very injurious, if no wager of battle were to be allowed against witnesses in causes affecting succession; since otherwise every right heir might be disinherited, as it would be easy to find two persons who would perjure themselves for money, if they had no fear of being challenged for their testimony.§ This passage indicates the real causes of preserving the judicial combat; systematic perjury in witnesses, and want of legal discrimination in judges.

* Collection des Mémoires, t. i. p. 25.

† Beaumanoir, p. 22.

‡ Id. p. 314.

§ c. 167.

CHAP. II. It was, in all civil suits, at the discretion of the litigant parties, to adopt the law of the Establishments, instead of resorting to combat.*
 PART II. As gentler manners prevailed, especially among those who did not
 FEUDAL SYSTEM. make arms their profession, the wisdom and equity of the new code was naturally preferred. The superstition which had originally led to the latter lost its weight through experience and the uniform opposition of the clergy. The same superiority of just and settled rules over fortune and violence, which had forwarded the encroachments of the ecclesiastical courts, was now manifested in those of the king. Philip Augustus, by a famous ordinance in 1190, first established royal courts of justice, held by the officers called bailiffs or seneschals, who acted as the king's lieutenants in his domains.† Every barony, as it became reunited to the crown, was subjected to the jurisdiction of one of these officers, and took the name of a bailliage or a seneschaussée; the former name prevailing most in the northern, the latter in the southern provinces. The vassals whose lands depended upon, or, in feudal language, moved from the superiority of this fief, were obliged to submit to the ressort or supreme appellant jurisdiction of the royal court established in it.‡ This began rapidly to encroach upon the feudal rights of justice. In a variety of cases, termed royal, the territorial court was pronounced incompetent; they were reserved for the judges of the crown: and, in every case, unless the defendant excepted to the jurisdiction, the royal court might take cognizance of a suit, and decide it in exclusion of the feudal judicature.§ The nature of cases reserved under the name of royal was kept in studied ambiguity, under cover of which the judges of the crown perpetually strove to multiply them. Louis X., when requested by the barons of Champagne to explain what was meant by royal cases, gave this mysterious definition:

Royal tribunals and progress of their jurisdiction.

* Beaumanoir, p. 309.

† Ordonnances des Rois, t. i. p. 18.

‡ Du Cange, v. Ballivi. Mém. de l'Acad. des Inscriptions, t. xxx. p. 603. Mably, l. iv. c. 4. Boulainvilliers, t. ii. p. 22.

§ Mably, Boulainvilliers, Montlosier, t. i. p. 184.

Every thing which by right or custom ought exclusively to come under the cognizance of a sovereign prince.* Vassals were permitted to complain in the first instance to the king's court, of injuries committed by their lords. These rapid and violent encroachments left the nobility no alternative but armed combinations to support their remonstrances. Philip the Fair bequeathed to his successor the task of appeasing a storm, which his own administration had excited. Leagues were formed in most of the northern provinces for the redress of grievances, in which the third estate, oppressed by taxation, united with the vassals, whose feudal privileges had been infringed. Separate charters were granted to each of these confederacies by Louis Hutin, which contain many remedial provisions against the grosser violations of ancient rights, though the crown persisted in restraining territorial jurisdictions.† Appeals became more common for false judgement, as well as denial of right; and in neither was the combat permitted. It was still, however, preserved in accusations of heinous crimes, unsupported by any testimony but that of the prosecutor, and was never abolished by any positive law, either in France or England. But instances of its occurrence are not frequent even in the fourteenth century; and one of these, rather remarkable in its circumstances, must have had a tendency to explode the remaining superstition which had preserved this mode of decision.‡

* Ordonnances des Rois, p. 606.

† Hoc perpetuo prohibemus edicto, ne subditi, seu justiciabiles prælatorum aut baronum nostrorum, aut aliorum subjectorum nostrorum trahantur in causam coram nostris officialibus, nec eorum causæ, nisi in casu ressorti, in nostris curiis audiantur, vel in alio casu ad nos pertinenti. Ordonnances des Rois, t. i. p. 362. This ordinance is of Philip the Fair, in 1302; but those passed under Louis Hutin are to the same effect. They may be read at length in the Ordonnances des Rois; or abridged by Boulainvilliers, t. ii. p. 94.

‡ Philip IV. restricted trial by combat to

cases where four conditions were united. The crime must be capital: Its commission certain: The accused greatly suspected: And no proof to be obtained by witnesses. Under these limitations, or at least some of them, for it appears that they were not all regarded, instances occur for some centuries.

See the singular story of Carouges and Le Gris, to which I allude in the text. Villaret, t. xi. p. 421. Trial by combat was allowed in Scotland exactly under the same conditions as in France. Pinkerton's Hist. of Scotl. vol. i. p. 66.

CHAP. II. PART II. FEUDAL SYSTEM. Royal council or court of peers.

The supreme council, or court of peers, to whose deliberative functions I have already adverted, was also the great judicial tribunal of the French crown from the accession of Hugh Capet. By this alone the barons of France, or tenants in chief of the king, could be judged. To this court appeals for denial of justice were referred. It was originally composed, as has been observed, of the feudal vassals, co-equals of those who were to be tried by it; and also of the household officers, whose right of concurrence, however anomalous, was extremely ancient.* But after the business of the court came to increase through the multiplicity of appeals, especially from the bailiffs established by Philip Augustus in the royal domains, the barons found neither leisure nor capacity for the ordinary administration of justice, and reserved their attendance for occasions where some of their own order were implicated in a criminal process. St. Louis, anxious for regularity and enlightened decisions, made a considerable alteration by introducing some counsellors of inferior rank, chiefly ecclesiastics, as advisers of the court, though, as is supposed, without any decisive suffrage. The court now became known by the name of parliament. Registers of its proceedings were kept, of which the earliest extant are of the year 1254. It was still perhaps in some degree ambulatory; but by far the greater part of its sessions in the thirteenth century were at Paris. The counselors nominated by the king, some of them clerks, others of noble rank, but not peers of the ancient baronage, acquired insensibly a right of suffrage.†

Parliament of Paris.

An ordinance of Philip the Fair in 1302 is generally supposed to have fixed the seat of the parliament at Paris, as well as altered its constituent parts.‡ Perhaps a series of progressive changes has been

* This court had always, it must be owned, a pretty considerable authority over some of the royal vassals. Even in Robert's reign, the count of Anjou and another nobleman of less importance were summoned before it. *Recueil des Historiens*, t. x. p. 473. 476.

† Boulainvilliers, t. ii. p. 29. 44. Mably,

l. iv. c. 2. *Encyclopédie*, Art. Parlement. *Mém. de l'Acad. des Inscript.* t. xxx. p. 603. The great difficulty I have found in this investigation will plead my excuse, if errors are detected.

‡ Pasquier (*Recherches de la France*, l. ii. c. 3.) published this ordinance, which indeed, as the editor of *Ordonnances des*

referred to a single epoch. But whether by virtue of this ordinance, or of more gradual events, the character of the old feudal court was nearly obliterated in that of the parliament of Paris. A systematic tribunal took the place of a loose aristocratic assembly. It was to hold two sittings in the year, each of two months duration; it was composed of two prelates, two counts, thirteen clerks, and as many laymen. Great changes were made afterwards in this constitution. The nobility, who originally sat there, grew weary of an attendance, which detained them from war, and from their favourite pursuits at home. The bishops were dismissed to their necessary residence upon their sees.* As they withdrew, that class of regular lawyers, originally employed, as it appears, in the preparatory business without any decisive voice, came forward to the higher places, and established a complicated and tedious system of procedure, which was always characteristic of French jurisprudence. They introduced at the same time a new theory of absolute power, and unlimited obedience. All feudal privileges were treated as encroachments on the imprescriptible rights of monarchy. With the natural bias of lawyers in favour of prerogative conspired that of the clergy, who fled to the king for refuge against the tyranny of the barons. In the civil and canon laws a system of political maxims was found, very uncongenial to the feudal customs. The French lawyers of the fourteenth and fifteenth centuries frequently give their king the title of Emperor, and treat disobedience to him as sacrilege.†

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Decline of
the feudal
system.

But among these lawyers, although the general tenants of the crown by barony ceased to appear, there still continued to sit a more eminent body, the lay and spiritual peers of France, representatives, as it were, of that ancient baronial aristocracy. It is a very contro-

Peers of
France.

Rois, t. i. p. 547. observes, is no ordinance, but a regulation for the execution of one previously made; nor does it establish the residence of the parliament at Paris.

* Velly, Hist. de France, t. vii. p. 303. and Encyclopédie, Art. Parlement, are the

best authorities I have found. There may very possibly be superior works on this branch of the French constitution, which have not fallen into my hands.

† Mably, l. iv. c. 2. note 10.

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verted question, at what time this exclusive dignity of peerage, a word obviously applicable by the feudal law to all persons co-equal in degree of tenure, was reserved to twelve vassals. At the coronation of Philip Augustus, in 1179, we first perceive the six great feudataries, dukes of Burgundy, Normandy, Guienne, counts of Toulouse, Flanders, Champagne, distinguished by the offices they performed in that ceremony. It was natural indeed that by their princely splendour and importance, they should eclipse such petty lords as Bourbon and Coucy, however equal in quality of tenure. During the reign of Philip Augustus, six ecclesiastical peers, the duke-bishops of Rheims, Laon, and Langres, the count-bishops of Beauvais, Chalons, and Noyon, were added, as a sort of parallel or counterpoise.* Their precedence does not, however, appear to have carried with it any other privilege, at least in judicature, than other barons enjoyed. But their pre-eminence being fully confirmed, Philip the Fair set the precedent of augmenting their original number, by conferring the dignity of peerage on the duke of Britany and the count of Artois.† Other creations took place subsequently; but they were confined, during the period comprized in this work, to princes of the royal blood. The peers were constant members of the parliament, from which other vassals holding in chief were never perhaps excluded by law, but their attendance was rare in the fourteenth century, and soon afterwards ceased altogether.‡

Progress of
the jurisdic-
tion of the
parliament.

A judicial body, composed of the greatest nobles in France, as well as of learned and eminent lawyers, must naturally have soon become politically important. Notwithstanding their disposition to enhance every royal prerogative, as opposed to feudal privileges, the parliament was not disinclined to see its own protection invoked by the subject. It appears by an ordinance of Charles V. in 1371, that the nobility of Languedoc had appealed to the parliament of Paris against a tax imposed by the king's authority; and this, at a time

* Velly, t. ii. p. 287. t. iii. p. 221. t. iv. p. 41.

† Velly, t. vii. p. 97.

‡ Encyclopédie, Art. Parlement. p. 6.

when the French constitution did not recognize the levying of money without consent of the States General, must have been a just ground of appeal, though the present ordinance annuls and overturns it.* During the tempests of Charles VI.'s unhappy reign, the parliament acquired a more decided authority, and held, in some degree, the balance between the contending factions of Orleans and Burgundy. This influence was partly owing to one remarkable function attributed to the parliament, which raised it much above the level of a merely political tribunal, and has at various times wrought striking effects in the French monarchy.

The few ordinances enacted by kings of France in the twelfth and thirteenth centuries were generally by the advice of their royal council, in which probably they were solemnly declared, as well as agreed upon. But after the gradual revolution of government, which took away from the feudal aristocracy all controul over the king's edicts, and substituted a new magistracy for the ancient baronial court, these legislative ordinances were commonly drawn up by the interior council, or what we may call the ministry. They were in some instances promulgated by the king in parliament. Others were sent thither for registration, or entry upon their records. This formality was by degrees, if not from the beginning, deemed essential to render them authentic and notorious, and therefore indirectly gave them the sanction and validity of a law.† Such at least appears to have been the received doctrine before the end of the fourteenth century. It has been contended by Mably among other writers, that at so early an epoch, the parliament of Paris did not enjoy, nor even claim to itself, that anomalous right of judging the expediency of edicts proceeding from the king, and consequently of partaking in his legislative authority, which afterwards so remarkably modified the absoluteness of his power. In the fifteenth century, however, it certainly manifested pretensions of this nature; first by registering ordinances in such a manner as to testify its own unwill-

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Royal edicts
enregistered
in parlia-
ment.

* Mably, l. v. c. 5. note 5.

† Encyclopédie, Art. Parlement.

CHAP. lingness and disapprobation, of which one instance occurs as early
 II. as 1418, and another in 1443; and, afterwards, by remonstrating
 PART II. against, and delaying the registration of laws, which it deemed
 FEUDAL inimical to the public interest. A conspicuous proof of this spirit
 SYSTEM. was given in their opposition to Louis XI. when repealing the Prag-
 matic Sanction of his father; an ordinance essential, in their opinion,
 to the liberties of the Gallican church. In this instance they ulti-
 mately yielded; but at another time they persisted in a refusal to
 enregister letters containing an alienation of the royal domain.*

Counsellors
 of parlia-
 ment ap-
 pointed for
 life and by
 election.

The counsellors of parliament were originally appointed by the king; and they were even changed according to circumstances. Charles V. made the first alteration by permitting them to fill up vacancies by election, which usage continued during the next reign. Charles VII. resumed the nomination of fresh members upon vacancies. Louis XI. even displaced actual counsellors. But in 1468, whether aware that such a proceeding exposed him to censure, or from caprice, he published a most important ordinance, declaring the presidents and counsellors of parliament immoveable, except in case of legal forfeiture.† This extraordinary measure of conferring independence on a body, which had already displayed a consciousness of its eminent privilege by opposing the registration of his edicts, is perhaps to be deemed a proof of that short-sightedness as to points of substantial interest, so usually found in crafty men. But, be this as it may, there was formed in the parliament of Paris an independent power, not emanating from the royal will, nor liable, except through force, to be destroyed by it; which, in later times, became almost the sole depositary, if not of what we should call the love of freedom, yet of public spirit and attachment to justice. France, so fertile of great men in the sixteenth and seventeenth centuries, might better spare, perhaps, from her annals any class and description of them, than her lawyers. Doubtless the parliament of Paris, with its

* Mably, l. vi. c. 5. note 19 and 21.
 Garnier, Hist. de France, t. xvii. p. 219.
 380.

† Villaret, t. xiv. p. 231. Encyclopédie,
 Art. Parlement.

prejudices and narrow views, its high notions of loyal obedience, so strangely mixed up with remonstrances and resistance, its anomalous privilege of objecting to edicts, hardly approved by the nation who did not participate in it, and overturned with facility by the king, whenever he thought fit to exert the sinews of his prerogative, was indeed poorly substituted for that co-ordinate sovereignty, that equal concurrence of national representatives in legislation, which has long been the exclusive pride of our government, and to which the States General of France, in their best days, had never aspired. No man of sane understanding would desire to revive institutions, both uncongenial to modern opinions, and to the natural order of society. Yet the name of the parliament of Paris must ever be respectable. It exhibited, upon various occasions, virtues from which human esteem is as inseparable, as the shadow from the substance; a severe adherence to principles, an unaccommodating sincerity, individual disinterestedness and consistency. Whether indeed these qualities have been so generally characteristic of the French people, as to afford no peculiar commendation to the parliament of Paris, it is rather for the observer of the present day, than the historian of past times to decide.*

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The principal causes that operated in subverting the feudal system may be comprehended under three distinct heads; the increasing power of the crown, the elevation of the lower ranks, and the decay of the feudal principle.

Causes of
the decline
of the fe-
dal system.

It has been my object in the last pages to point out the acqui-

Acquisitions
of power by
the crown.

* The province of Languedoc, with its dependencies of Quercy and Rouergue, having belonged almost in full sovereignty to the counts of Toulouse, was not perhaps subject to the feudal resort, or appellan jurisdiction of any tribunal at Paris. Philip the Bold, after its reunion to the crown, established the parliament of Toulouse, a tribunal without appeal, in 1280. This was however suspended from 1291 to 1443, during which interval the parliament of Paris

exercised an appellan jurisdiction over Languedoc. Vaissette, Hist. de Lang. t. iv. p. 60. 71. 524. Sovereign courts or parliaments were established by Charles VII. at Grenoble for Dauphiné, and by Louis XI. at Bordeaux and Dijon for Guienne and Burgundy. The parliament of Rouen is not so ancient. These institutions rather diminished the resort of the parliament of Paris, which had extended over Burgundy, and, in time of peace, over Guienne.

CHAP. II. PART II. FEUDAL SYSTEM. Augmentation of the domain.

sitions of power by the crown of France in respect of legislative and judicial authority. The principal augmentations of its domain have been historically mentioned in the last chapter; but the subject may here require further notice. The French kings naturally acted upon a system, in order to recover those possessions, which the improvidence or necessities of the Carlovingian race had suffered almost to fall away from the monarchy. This course, pursued with tolerable steadiness for two or three centuries, restored their effective power. By escheat or forfeiture, by bequest or purchase, by marriage or succession, a number of fiefs were merged in their increasing domain.* It was part of their policy to obtain possession of arriere-fiefs, and thus to become tenants to their own barons. In such cases, the king was obliged, by the feudal duties, to perform homage, by proxy, to his subject, and engage himself to the service of his

* The word domain is calculated, by a seeming ambiguity, to perplex the reader of French history. In its primary sense, the domain or demesne (*dominium*) of any proprietor was confined to the lands in his immediate occupation; excluding those of which his tenants, whether in fief or villenage, whether for a certain estate or at will, had an actual possession, or, in our law-language, perannuity of the profits. Thus the compilers of Domesday-Book distinguish, in every manor, the lands held by the lord in demesne from those occupied by his villeins or other tenants. And, in England, the word, if not technically, yet in use is still confined to this sense. But in a secondary acceptance, more usual in France, the domain comprehended all lands for which rent was paid (*censives*) and which contributed to the regular annual revenue of the proprietor. The great distinction was between lands in demesne, and those in fief. A grant of territory, whether by the king or another lord, comprizing as well domanial estates and tributary towns, as feudal superiorities, was expressed to convey 'in dominico quod est in dominico, et in feodo quod est in feodo.' Since, therefore, fiefs, even those of the vavassors or inferior tenantry, were not part

of the lord's domain, there is, as I said, an apparent ambiguity in the language of historians, who speak of the reunion of provinces to the royal domain. This ambiguity however is rather apparent than real. When the duchy of Normandy, for example, is said to have been united by Philip Augustus to his domain, we are not, of course, to suppose that the soil of that province became the private estate of the crown. It continued, as before, in the possession of the Norman barons and their sub-vassals, who had held their estates of the dukes. But it is meant only, that the king of France stood exactly in the place of the duke of Normandy, with the same rights of possession over lands absolutely in demesne, of rents and customary payments from the burgesses of towns and tenants in rotture or villenage, and of feudal services from the military vassals. The immediate superiority, and the immediate ressort, or jurisdiction, over these devolved to the crown; and thus the duchy of Normandy, considered as a fief, was re-united, or more properly, merged in the royal domain, though a very small part of the territory might become truly domanial.

fief. But, for every political purpose, it is evident that the lord CHAP.
could have no command over so formidable a vassal.* II.

The re-union of so many fiefs was attempted to be secured by a legal principle, that the domain was inalienable and imprescriptible. PART II.
This became at length a fundamental maxim in the law of France. FEUDAL SYSTEM.
But it does not seem to be much older than the reign of Philip V. who, in 1318, revoked the alienations of his predecessors, nor was it thoroughly established, even in theory, till the fifteenth century.† Alienations, however, were certainly very repugnant to the policy of Philip Augustus and St. Louis. But there was one species of infeudation, so consonant to ancient usage and prejudice, that it could not be avoided upon any suggestions of policy. This was the investiture of younger princes of the blood with considerable territorial apanages. It is remarkable, that the epoch of apanages on so great a scale was the reign of St. Louis, whose efforts were constantly directed against feudal independence. Yet he invested his brothers with the counties of Poitou, Anjou and Artois, and his sons with those of Clermont and Alençon. This practice, in later times, produced very mischievous consequences.

Under a second class of events that contributed to destroy the spirit of the feudal system, we may reckon the abolition of villenage; the increase of commerce, and consequent opulence of merchants and artizans; and especially the institution of free cities and boroughs. This is one of the most important and interesting steps in the progress of society during the middle ages, and deserves particular consideration.

The provincial cities under the Roman empire enjoyed, as is well known, a municipal magistracy and the right of internal regulation. Free and chartered towns.
It would not have been repugnant, perhaps, to the spirit of the Frank and Gothic conquerors, to have left them in possession of these privileges. But there seems no satisfactory proof that they

* See a memoir on the acquisition of arrière-fiefs by the kings of France, in Mém. de l'Acad. des Inscript. t. I. by M. Dacier.

† Préface au 15ième tome des Ordonnances, par M. de Pastoret.

CHAP. were preserved either in France or in Italy;* or, if they existed at
 II. all, they were swept away, in the former country, during the confu-
 PART II. sion of the ninth century, which ended in the establishment of the
 FEUDAL SYSTEM. feudal system. Every town, except within the royal domains, was
 subject to some lord. In episcopal cities, the bishop possessed a
 considerable authority; and in many, there was a class of resident
 nobility. It is probable, that the proportion of freemen was always
 greater than in the country; some sort of retail trade, and even of
 manufacture, must have existed in the rudest of the middle ages,
 and consequently some little capital was required for their exercise.
 Nor was it so easy to oppress a collected body, as the scattered and
 dispirited cultivators of the soil. Probably therefore the condition
 of the towns was at all times by far the more tolerable servitude;
 and they might enjoy several immunities by usage, before the date
 of those charters which gave them sanction. In Provence, where
 the feudal star shone with a less powerful ray, the cities, though not
 independently governed, were more flourishing than the French.
 Marseilles, in the beginning of the fourth age, was able to equip
 powerful navies, and to share in the wars of Genoa and Pisa against
 the Saracens of Sardinia.†

Earliest
 charters.

The earliest charters of community granted to towns in France
 have been commonly referred to the time of Louis the Sixth;
 though it is not improbable, that some cities in the south had a
 municipal government by custom, if not by grant, at an earlier
 period.‡ Noyon, St. Quentin, Laon, and Amiens appear to have

* M. de Bréquigny says, that Lyons and Rheims can trace their own municipal government some centuries higher than the establishment of communes by Louis VI. The former city, which indeed was not French at that time, never had a charter of incorporation. *Ordonnances des Rois*, t. xi. préface, p. 4. This préface contains an excellent account of the origin and privileges of chartered towns in France.

† There were more freemen in Provence, says an historian of the country, than in any other part of France; and the revolutions of

the monarchy being less felt than elsewhere, our towns naturally preserved their municipal government. I have borrowed this quotation from Heeren, *Essai sur l'Influence des Croisades*, p. 122. to whom I am indebted for other assistance. Vaissette also thinks, that the inhabitants of towns in Languedoc were personally free in the tenth century, though those of the country were in servitude. *Hist. de Languedoc*, t. ii. p. 111.

‡ *Ordonnances des Rois*, ubi supra, p. 7. These charters are as old as 1110, but the precise date is unknown.

been the first that received emancipation at the hands of this prince.* The chief towns in the royal domains were successively admitted to the same privileges during the reigns of Louis VI.

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* The Benedictine historians of Languedoc are of opinion that the city of Nismes had municipal magistrates even in the middle of the tenth century. t. ii. p. 111. However this may be, the *citizens* of Narbonne are expressly mentioned in 1080. Appendix, p. 308. The *burgesses* of Carcassone appear by name in a charter of 1107. p. 515. In one of 1131, the *consuls* of Beziers are mentioned; they existed therefore previously. p. 409. and Appendix, p. 959. The magistrates of St. Antonin en Rouergue are named in 1136; those of Montpellier in 1142; of Narbonne in 1148; and of St. Gilles in 1149. pp. 515. 432. 442. 464. The capitouls of Toulouse pretend to an extravagant antiquity; but were in fact established by Alfonso count of Toulouse, who died in 1148. In 1152, Raymond V. confirmed the regulations made by the common council of Toulouse, which became the foundation of the customs of that city. p. 472.

If we may trust altogether to the Assises de Jérusalem in their present shape, the court of burgesses having jurisdiction over persons of that rank, was instituted by Godfrey of Bouillon, who died 1100. Ass. de Jérus. c. 2. This would be even earlier than the charter of London, granted by Henry I. in 1103. Lord Lyttleton goes so far as to call it "certain, that in England many cities and towns were bodies corporate and communities long before the alteration introduced into France by the charters of Louis le Gros." Hist. of Henry II. vol. iv. p. 29. But this position, as I shall more particularly shew in another place, is not borne out by any good authority, if it extends to internal jurisdiction, and management of their own police; whereof, except in the instance of London, we have no proof before the reign of Henry II.

But the incorporation of communities seems to have been decidedly earlier in Spain than in any other country. Alfonso V. in 1020, granted a charter to Leon, which is said to mention the common coun-

cil of that city in terms that shew it to be an established institution. During the latter part of the eleventh century, as well as in subsequent times, such charters are very frequent. Marina, Ensayo Historico-Critico sobre las siete partidas. In several instances, we find concessions of smaller privileges to towns, without any political power. Thus Berenger, count of Barcelona, in 1025, confirms to the inhabitants of that city all the franchises which they already possess. These seem however to be confined to exemption from paying rent, and from any jurisdiction below that of an officer deputed by the count. De Marca, Marca Hispanica, p. 1038. Another grant occurs in the same volume, p. 909. from the bishop of Barcelona in favour of a town of his diocese. By some inattention, Robertson has quoted these charters as granted to "two villages in the county of Rousillon." Hist. Charles V. note 16. The charters of Tortosa and Lerida in 1149 do not contain any grant of jurisdiction. p. 1303.

The corporate towns in France and England always enjoyed fuller privileges, than these Catalonian charters impart. The essential characteristics of a commune, according to M. de Bréquigny, were: an association confirmed by charter; a code of fixed sanctioned customs; and a set of privileges, always including municipal, or elective government. Ordonnances, ubi supra, p. 3. A distinction ought however to be pointed out, which is rather liable to elude observation, between communes, or corporate towns, and boroughs (*bourgeoisies*). The main difference was, that in the latter there was no elective government, the magistrates being appointed by the king, or other superior. In the possession of fixed privileges and exemptions, in the personal liberty of their inhabitants, and in the certainty of their legal usages, there was no distinction between corporate towns and mere boroughs; and indeed it is agreed, that every corporate town was a borough, though every borough

CHAP. Louis VII. and Philip Augustus. This example was gradually followed by the peers and other barons; so that by the end of the thirteenth century, the custom had prevailed over all France. It has been sometimes imagined, that the crusades had a material influence in promoting the erection of communities. Those expeditions would have repaid Europe for the prodigality of crimes and miseries which attended them, if this notion were founded in reality. But I confess, that in this as in most other respects their beneficial consequences appear to me very much exaggerated. The cities of Italy obtained their internal liberties by gradual encroachments, and by the concessions of the Franconian emperors. Those upon the Rhine owed many of their privileges to the same monarchs, whose cause they had espoused in the rebellions of Germany. In France, the charters granted by Louis the Fat could hardly be connected with the first crusade, in which the crown had taken no part, and were long prior to the second. It was not till fifty years afterwards, that the barons seem to have trod in his steps by granting charters to their vassals, and these do not appear to have been particularly related in time to any of the crusades. Still less can the corporations, erected by Henry II. in England, be ascribed to these holy wars, in which our country had hitherto taken no considerable share.

nor in deliberate policy.

The establishment of chartered towns in France has also been ascribed to deliberate policy. "Louis the Gross," says Robertson, "in order to create some power that might counterbalance those potent vassals who controuled, or gave law to the crown, first adopted the plan of conferring new privileges on the towns situated within his own domain." Yet one does not immediately perceive, what strength

was not a corporation.* The French antiquary quoted above does not trace these inferior communities or boroughs, higher than the charters of Louis VI. But we find the

name, and a good deal of the substance, in England under William the Conqueror, as is manifest from Domesday Book.

* The preface to the twelfth volume of *Ordonnances des Rois* contains a full account of *bourgeoisies*, as that to the eleventh does of *communes*. A great part of it however is applicable to both species, or rather to the genus and the species. See too that to the fourteenth volume of *Recueil des Historiens*. p. 74.

the king could acquire by granting these extensive privileges within his own domains, if the great vassals were only weakened, as he asserts afterwards, by following his example. In what sense, besides, can it be meant, that Noyon or Amiens, by obtaining certain franchises, became a power, that could counter-balance the duke of Normandy, or count of Champagne? It is more natural to impute this measure, both in the king and his barons, to their pecuniary exigencies; for we could hardly doubt that their concessions were sold at the highest price, even if the existing charters did not exhibit the fullest proof of it.* It is obvious, however, that the coarser methods of rapine must have grown obsolete, and the rights of the inhabitants of towns to property established, before they could enter into any compact with their lord for the purchase of liberty. Guibert, abbot of St. Nogent near Laon, relates the establishment of a community in that city with circumstances that, in the main, might probably occur in any other place. Continual acts of violence and robbery having been committed, which there was no police adequate to prevent, the clergy and principal inhabitants agreed to enfranchise the populace, for a sum of money, and to bind the whole society by regulations for general security. These conditions were gladly accepted; the money was paid, and the leading men swore to maintain the privileges of the inferior freemen. The bishop of Laon, who happened to be absent, at first opposed this new institution, but was ultimately induced by money to take a similar oath; and the community was confirmed by the king. Unluckily for himself, the bishop afterwards annulled the charter; when the inhabitants, in despair at seeing themselves reduced to servitude, rose and murdered him. This was in 1112; and Guibert's narrative certainly does not support the opinion, that charters of community proceeded from the policy of government. He seems to have looked upon them with the jealousy of a feudal abbot, and blames the bishop of Amiens for consenting to such an establishment in his

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Circum-
stances at-
tending the
charter of
Laon.

* Ordonnances des Rois, t. xi. préface, p. 18. et 50.

CHAP. city, from which, according to Guibert, many evils resulted. In
 II. his sermons, we are told, this abbot used to descant on "those
 PART II. execrable communities, where serfs against law and justice withdraw
 FEUDAL themselves from the power of their lords."*

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In some cases they were indebted for success to their own courage and love of liberty. Oppressed by the exactions of their superiors, they had recourse to arms, and united themselves in a common league confirmed by oath, for the sake of redress. One of these associations took place at Mans as early as 1067, and, though it did not produce any charter of privileges, is a proof of the spirit to which ultimately the superior classes were obliged to submit.† Several charters bear witness, that this spirit of resistance was justified by oppression. Louis VII. frequently declares the tyranny exercised over the towns to be his motive for enfranchising them. Thus the charter of Mantes in 1150 is said to be given *pro nimia oppressione pauperum*: that of Compiègne in 1153, *propter enormitates clericorum*: that of Dourlens, granted by the count of Ponthieu in 1202, *propter injurias et molestias a potentibus terræ burgensibus frequenter illatas*.‡

The extent
 of their pri-
 vileges.

The privileges which these towns of France derived from their charters were surprizingly extensive; especially if we do not suspect some of them to be merely in confirmation of previous usages. They were made capable of possessing common property, and authorized to use a common seal as the symbol of their incorporation. The more oppressive and ignominious tokens of subjection, such as the fine paid to the lord for permission to marry their children, were abolished. Their payments of rent or tribute were limited both in amount and as to the occasions when they might be demanded; and these were levied by assessors of their own electing. Some obtained an exemption from assisting their lord in

* Hist. Littéraire de la France, t. x. p. 448. Du Cange, voc. Communia.

† Ordonnances des Rois, t. xi. préface, p. 17.

‡ Recueil des Historiens, t. xiv. préface, p. 66.

war; others were only bound to follow him when he personally commanded; and almost all limited their service to one, or at the utmost very few days. If they were persuaded to extend its duration, it was, like that of feudal tenants, at the cost of their superior. Their customs, as to succession and other matters of private right, were reduced to certainty, and, for the most part, laid down in the charter of incorporation. And the observation of these was secured by the most valuable privilege which the chartered towns obtained; that of exemption from the jurisdiction, as well of the royal, as the territorial judges. They were subject only to that of magistrates, either wholly elected by themselves, or, in some places, with a greater or less participation of choice in the lord. They were empowered to make special rules, or, as we call them, bye-laws, so as not to contravene the provisions of their charter, or the ordinances of the king.*

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It was undoubtedly far from the intention of those barons who conferred such immunities upon their subjects, to relinquish their own superiority, and rights not expressly conceded. But a remarkable change took place in the beginning of the thirteenth century, which affected, in a high degree, the feudal constitution of France. Towns, distrustful of their lord's fidelity, sometimes called in the king as guarantee of his engagements. This first stage of royal interference led to a more extensive measure. Philip Augustus granted letters of safe-guard to communities dependent upon the barons, assuring to them his own protection and patronage.† And this was followed up so quickly by the court, if we believe some writers, that, in the next reign, Louis VIII. pretended to the immediate sovereignty over all chartered towns, in exclusion of their original lords.‡ Nothing, perhaps, had so decisive an effect in

Connexion
of freetowns
with the
king.

* Ordonnances des Rois, préfaces aux tomes xi. et xii. Du Cange, voc. Communia, Hostis. Carpentier, Suppl. ad Du Cange, v. Hostis. Mably, Observations sur l'Hist. de France, l. iii. c. 7.

† Mably, *ibid.*

‡ Reputabat civitates omnes suas esse, in quibus communia essent. I mention this in deference to Du Cange, Mably and others, who assume the fact as incontrovertible; but the passage is only in a monkish chronicler, whose authority, were it even

CHAP. subverting the feudal aristocracy. The barons perceived too late, that, for a price long since lavished in prodigal magnificence, or useless warfare, they had suffered the source of their wealth to be diverted, and the nerves of their strength to be severed. The government prudently respected the privileges secured by charter. Philip the Long established an officer in all large towns to preserve peace by an armed police; but, though subject to the orders of the crown, he was elected by the burgesses; and they took a mutual oath of fidelity to each other. Thus shielded under the king's mantle, they ventured to encroach upon the neighbouring lords, and to retaliate for the long oppression of the commonalty.* Every citizen was bound by oath to stand by the common cause against all aggressors, and this obligation was abundantly fulfilled. In order to swell their numbers, it became the practice to admit all who came to reside within their walls to the rights of burghership, even though they were villeins, appurtenant to the soil of a master, from whom they had escaped.† Others, having obtained the same

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more explicit, would not weigh much in a matter of law. Beaumanoir however, sixty years afterwards, lays it down, that no one can erect a commune without the king's consent. c. 50. p. 268. And this was an unquestionable maxim in the fourteenth century. Ordonnances, t. xi. p. 29.

* In the charter of Philip Augustus to the town of Roye in Picardy we read: If any stranger, whether noble or villein, commits a wrong against the town, the mayor shall summon him to answer for it, and if he does not obey the summons, the mayor and inhabitants may go and destroy his house, in which we (the king) will lend them our assistance, if the house be too strong for the burgesses to pull down: except the case of one of our vassals, whose house shall not be destroyed; but he shall not be allowed to enter the town, till he has made amends at the discretion of the mayor and jurats. Ordonnances des Rois, t. xi. p. 228. This summary process could only, as I conceive, be employed, if the house was situated within the jurisdiction of the com-

mune. See charter of Crespy, id. p. 253. In other cases, the application for redress was to be made in the first instance to the lord of the territory wherein the delinquent resided. But upon his failing to enforce satisfaction, the mayor and jurats might satisfy themselves; liceat justitiam quærere, prout poterunt; that is, might pull down his house, provided they could. Mably positively maintains the communes to have had the right of levying war. l. iii. c. 7. And Bréquigny seems to coincide with him. Ordonnances, préface, p. 46. See also Hist. de Languedoc, t. iii. p. 115. The territory of a commune was called Pax; (p. 185.) an expressive word.

† One of the most remarkable privileges of chartered towns was that of conferring freedom on runaway serfs, if they were not reclaimed by their masters within a certain time. This was a pretty general law. Si quis natus quietè per unum annum et unum diem in aliquâ villâ privilegiatâ manserit, ita quod in eorum communem gyldam tanquam civis receptus fuerit, eo ipso à villenagio

privileges, continued to dwell in the country; but, upon any dispute with their lords, called in the assistance of their community. Philip the Fair, erecting certain communes in Languedoc, gave to any who would declare on oath that he was aggrieved by the lord or his officers, the right of being admitted a burgess of the next town, upon paying one mark of silver to the king, and purchasing a tenement of a definite value. But the neglect of this condition, and several other abuses, are enumerated in an instrument of Charles V., redressing the complaints made by the nobility and rich ecclesiastics of the neighbourhood.* In his reign, the feudal independence had so completely yielded, that the court began to give into a new policy, which was ever after pursued; that of maintaining the dignity and privileges of the noble class against those attacks which wealth and liberty encouraged the plebeians to make upon them.

The maritime towns of the south of France entered into separate alliances with foreign states, as Narbonne with Genoa in 1166; and Montpellier in the next century. At the death of Raymond VII. Avignon, Arles and Marseilles affected to set up separate republics; but they were soon brought into subjection.† The independent character of maritime towns was not peculiar to those of the southern provinces. Edward II. and Edward III. negotiated, and entered into alliances with the towns of Flanders, to which neither their count, nor the king of France, were parties.‡ Even so late as the reign of Louis XI., the duke of Burgundy did not hesitate to address the citizens of Rouen, in consequence of the capture of some ships, as if they had formed an independent state.§ This evidently arose out of the ancient customs of private warfare, which, long after they were repressed by a stricter police at home,

Maritime towns peculiarly independent.

liberabitur. Glanvil, l. v. c. 5. The cities of Languedoc had the same privilege. Vaissette, t. iii. p. 528. 530. And the editor of the Ordonnances speaks of it as general. p. 44. A similar custom was established in Germany; but the term of prescription was, in

some places at least, much longer than a year and a day. Pfeffel. t. i. p. 294.

* Martenne, Thesaur. Anecd. t. i. p. 1515.

† Velly, t. iv. p. 446. t. v. p. 97.

‡ Rymier, t. iv. passim.

§ Garnier, t. xvii. p. 596.

CHAP. continued with lawless violence on the ocean, and gave a character
 II. of piracy to the commercial enterprize of the middle ages.

PART II.

FEUDAL
SYSTEM.

Military
service of
feudal te-
nants com-
muted for
money.

Notwithstanding the forces which in opposite directions assailed the feudal system, from the enhancement of royal prerogative, and the elevation of the chartered towns, its resistance would have been much longer, but for an intrinsic decay. No political institution can endure, which does not rivet itself to the hearts of men, by ancient prejudice, or acknowledged interest. The feudal compact had originally much of this character. Its principle of vitality was warm and active. In fulfilling the obligations of mutual assistance and fidelity by military service, the energies of friendship were awakened, and the ties of moral sympathy superadded to those of positive compact. While private wars were at their height, the connexion of lord and vassal grew close and cordial, in proportion to the keenness of their enmity towards others. It was not the object of a baron to disgust and impoverish his vassals by enhancing the profits of seigniorie; for there was no rent of such price as blood, nor any labour so serviceable as that of the sword.

But the nature of feudal obligation was far better adapted to the partial quarrels of neighbouring lords than to the wars of kingdoms. Customs, founded upon the poverty of the smaller gentry, had limited their martial duties to a period never exceeding forty days, and diminished according to the subdivisions of the fief. They could undertake an expedition, but not a campaign; they could burn an open town, but had seldom leisure to besiege a fortress. Hence, when the kings of France and England were engaged in wars, which, on our side at least, might be termed national, the inefficiency of the feudal militia became evident. It was not easy to employ the military tenants of England upon the frontiers of Normandy and the Isle of France, within the limits of their term of service. When under Henry II. and Richard, the scene of war was frequently transferred to the Garonne or the Charente, this was still more impracticable. The first remedy to which sovereigns had recourse, was to keep their vassals in service

after the expiration of their forty days, at a stipulated rate of pay.* But this was frequently neither convenient to the tenant, anxious to return back to his household, nor to the king, who could not readily defray the charges of an army.† Something was to be devised more adequate to the exigency, though less suitable to the feudal spirit. By the feudal law, the fief was, in strictness, forfeited by neglect of attendance upon the lord's expedition. A milder usage introduced a fine, which, however, was generally rather heavy, and assessed at discretion. An instance of this kind has been noticed in an earlier part of the present chapter, from the muster-roll of Philip the Bold's expedition against the count de Foix. The first Norman king of England made these amercements very oppressive. But when a pecuniary payment became the regular course of redeeming personal service, which, under the name of escuage, may be referred to the reign of Henry II., it was essential to liberty, that the military tenant should not lie at the mercy of the crown.‡ Accordingly, one of the most important provisions contained in the Magna Charta of John, secures the assessment of escuage in parliament. This is not renewed in the charter of Henry III., but the practice during his reign was conformable to its spirit.

The feudal military tenures had superseded that earlier system of public defence, which called upon every man, and especially every land-holder, to protect his country.§ The relations of a vassal

* Du Cange, et Carpentier, voc. Hostis.

† There are several instances, where armies broke up, at the expiration of their limited term of service, in consequence of disagreement with the sovereign. Thus, at the siege of Avignon in 1226, Theobald count of Champagne retired with his troops, that he might not promote the king's designs upon Languedoc. At that of Angers in 1230, nearly the same thing occurred. M. Paris, p. 308.

‡ Madox, Hist. of Exchequer, c. 16. conceives that escuage may have been levied by Henry I.; the earliest mention of it, however, in a record is under Henry II. in 1159. Lyttleton's Hist. of Henry II. vol. iv. p. 13.

§ Every citizen, however restricted may be his privileges, is naturally bound to repel invasion. A common rising of the people in arms, though not always the most convenient mode of resistance, is one to which all governments have a right to resort. Volumus, says Charles the Bald, ut cujuscunque nostrum homo, in cujuscunque regno sit, cum seniore suo in hostem, vel aliis suis utilitatibus pergat; nisi talis regni invasio, quam *Lantweri* dicunt, (quod absit) acciderit, ut omnis populus illius regni ad eam repellendam communiter pergat. Baluzii Capitularia, t. ii. p. 44. This very ancient mention of the *Landwehr*, or insurrectional militia, so signally called forth in the pre-

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SYSTEM.Employ-
ment of
mercenary
troops.

came in place of those of a subject and a citizen. This was the revolution of the ninth century. In the twelfth and thirteenth, another innovation, rather more gradually, prevailed, and marks the third period in the military history of Europe. Mercenary troops were substituted for the feudal militia. Undoubtedly there could never have been a time, when valour was not to be purchased with money; nor could any employment of surplus wealth be more natural either to the ambitious or the weak. But we cannot expect to find numerous testimonies to facts of this description.* In public and national history, I am aware of no instance of what may be called a regular army, (unless we consider the Antrustions of the Merovingian kings as such,) more ancient than the body-guards, or huscarles, of Canute the Great. These select troops amounted to six thousand men, on whom he probably relied to ensure the subjection of England. A code of martial law compiled for their regulation is extant in substance; and they are reported

sent age, will strike the reader. The obligation of bearing arms in defensive war was peculiarly incumbent on the freeholder, or alodialist. It made part of the *trinoda necessitas* in England, erroneously confounded by some writers with a feudal military tenure. But when these latter tenures became nearly universal, the original principles of public defence were almost obliterated; and I know not how far alodial proprietors, where they existed, were called upon for service. Kings did not however always dispense with such aid as the lower people could supply. Louis the Fat called out the militia of towns and parishes under their priests, who marched at their head, though they did not actually command them in battle. In the charters of incorporation which towns received, the number of troops required was usually expressed. These formed the infantry of the French armies, perhaps more numerous than formidable to an enemy. In the war of the same prince with the emperor Henry V. all the population of the frontier provinces was called out; for the militia of the counties of Rheims and Chalons is said to have amounted to sixty

thousand men. Philip IV. summoned one foot-soldier for every twenty hearths to take the field after the battle of Courtrai. (Daniel, *Hist. de la Milice Française*: Velly, t. iii. p. 62. t. vii. p. 287.) Commissions of array, either to call out the whole population, or, as was more common, to select the most serviceable by forced impressment, occur in English records from the reign of Edward I. (Stuart's *View of Society*, p. 400.) and there are even several writs directed to the bishops, enjoining them to cause all ecclesiastical persons to be arrayed and armed on account of an expected invasion. Rymer, t. vi. p. 726. (46 E. III.) t. vii. p. 162. (1 R. II.) and t. viii. p. 270. (3 H. IV.)

* The preface to the eleventh volume of *Recueil des Historiens*, p. 232. notices the word *solidarii*, for hired soldiers, as early as 1030. It was probably unusual at that time; though in Roger Hoveden, Ordericus Vitalis, and other writers of the twelfth century, it occurs not very unfrequently. We may perhaps conjecture the abbots, as both the richest and the most defenceless, to have been the first who availed themselves of mercenary valour.

to have displayed a military spirit of mutual union, of which their master stood in awe.* Harold II. is also said to have had Danish soldiers in pay. But the most eminent example in that age of a mercenary army is that by whose assistance William achieved the conquest of England. Historians concur in representing this force to have consisted of sixty thousand men. He afterwards hired soldiers from various regions to resist an invasion from Norway. William Rufus pursued the same course. Hired troops did not, however, in general form a considerable portion of armies, till the wars of Henry II. and Philip Augustus. Each of these monarchs took into pay large bodies of mercenaries, chiefly, as we may infer from their appellation of Brabançons, enlisted from the Netherlands. These were always disbanded on cessation of hostilities; and, unfit for any habits but of idleness and licence, oppressed the peasantry and ravaged the country without controul. But their soldier-like principles of indiscriminate obedience, still more than their courage and field-discipline, rendered them dear to kings, who dreaded the free spirit of a feudal army. It was by such a foreign force, that John saw himself on the point of abrogating the Great Charter, and reduced his barons to the necessity of tendering the kingdom to a prince of France.†

It now became manifest, that the probabilities of war inclined to

* For these facts, of which I remember no mention in English history, I am indebted to the Danish collection of Langebek, *Scriptores Rerum Danicarum Medii Ævi*. Though the *Leges Castrenses Canuti Magni*, published by him, t. iii. p. 141. are not in their original statutory form, they proceed from the pen of Sweno, the earliest Danish historian, who lived under Waldemar I., less than a century and a half after Canute. I apply the word *huscarle*, familiar in Anglo-Saxon documents, to these military retainers, on the authority of Langebek in another place. t. ii. p. 454. The object of Canute's institutions was to produce an uniformity of discipline and conduct among his soldiers, and thus to separate them more decidedly

from the people. They were distinguished by their dress and golden ornaments. Their manners towards each other were regulated; quarrels and abusive words subjected to a penalty. All disputes, even respecting lands, were settled among themselves at their general parliament. A singular story is told, which, if false, may still illustrate traditionary character of these guards; that Canute having killed one of their body in a fit of anger, it was debated whether the king should incur the legal penalty of death; and this was only compromised by his kneeling on a cushion before the assembly, and awaiting their permission to rise. t. iii. p. 150.

† Matt. Paris.

CHAP. II. PART II. FEUDAL SYSTEM. the party, who could take the field with selected and experienced soldiers. The command of money was the command of armed hirelings, more sure and steady in battle, as we must confess with shame, than the patriot citizen. Though the nobility still composed in a great degree the strength of an army, yet they served in a new character; their animating spirit was that of chivalry, rather than of feudal tenure; their connexion with a superior was personal, rather than territorial. The crusades had probably a material tendency to effectuate this revolution, by substituting, what was inevitable in those expeditions, a voluntary stipendiary service for one of absolute obligation.* It is the opinion of Daniel, that in the thirteenth century all feudal tenants received pay, even during their prescribed term of service.† This does not appear consonant to the law of fiefs; yet their poverty may often have rendered it impossible to defray the cost of equipment on distant expeditions. A large proportion of the expense must in all cases have fallen upon the lord; and hence that perpetually increasing taxation, the effects whereof we have lately been investigating.

A feudal army, however, composed of all tenants in chief and their vassals, still presented a formidable array. It is very long before the paradox is generally admitted, that numbers do not necessarily contribute to the intrinsic efficiency of armies. Philip IV. assembled a great force by publishing the *arriere-ban*, or feudal summons, for his unhappy expedition against the Flemings. A small and more disciplined body of troops would not, probably, have met with the discomfiture of Courtray. Edward I. and Edward II.

* Joinville, in several passages, intimates that most of the knights serving in St. Louis's crusade received pay, either from their superior lord, if he were on the expedition, or from some other, into whose service they entered for the time. He set out himself with ten knights, whom he afterwards found it difficult enough to maintain. Collection des Mémoires, t. i. p. 49. and t. ii. p. 53.

† Hist. de la Milice Française, p. 84.

The use of mercenary troops prevailed much in Germany during the thirteenth century. Schmidt, t. iv. p. 89. In Italy, it was also very common; though its general adoption is to be referred to the commencement of the succeeding age.

frequently called upon those who owed military service, in their invasions of Scotland.* But in the French wars of Edward III. the whole I think of his army served for pay, and was raised by contract with men of rank and influence, who received wages for every soldier according to his station and the arms he bore. The rate of pay was so remarkably high, that, unless we imagine a vast profit to have been intended for the contractors, the private lancers and even archers must have been chiefly taken from the middling classes, the smaller gentry, or rich yeomanry, of England.† This part of Edward's military system was probably a leading cause of his superiority over the French, among whom the feudal tenantry were called into the field, and swelled their unwieldy armies at Crecy and Poitiers. Both parties, however, in this war employed mercenary troops. Philip had 15,000 Italian cross bow men at Crecy. It had for some time before become the trade of soldiers of fortune, to enlist under leaders of the same description as themselves in companies of adventure, passing from one service to another, unconcerned as to the cause in which they were retained. These military adventurers played a more remarkable part in Italy than in France, though not a little troublesome to the latter country. The feudal tenures had at least furnished a loyal native militia, whose duties, though much limited in extent, were defined by usage, and enforced by principle. They gave place in an evil hour for the people; and eventually for sovereigns, to contracts with mutinous hirelings, frequently strangers, whose valour in the day of battle inadequately redeemed their bad faith and vexatious rapacity. France, in her calamitous period under Charles VI. and Charles VII. experienced

* Rymer, t. ii. p. 173. 189. 199. et alibi sæpius.

† Many proofs of this may be adduced from Rymer's Collection. The following is from Brady's History of England, vol. ii. Appendix, p. 86. The wages allowed by contract, in 1346, were for an earl, 6s. 8d. per day; for barons and bannerets, 4s.; for knights, 2s.; for squires, 1s.; for archers and

hobelers (light cavalry,) 6d.; for archers on foot, 3d.; for Welshmen, 2d. These sums, multiplied by about 24, to bring them on a level with the present value of money, will shew the pay to have been extremely high. The cavalry, of course, furnished themselves with horses and equipments, as well as arms, which were very expensive. See too Chap. I. p. 83 of this volume.

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II.

PART II.

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SYSTEM.

Establishment of a regular force by Charles VII.

Decay of feudal principles.

CHAP. II. the full effects of military licentiousness. At the expulsion of the English, robbery and disorder were substituted for the more specious plundering of war. Perhaps few measures have ever been more popular, as few certainly have been more politic, than the establishment of regular companies of troops by an ordinance of Charles VII. in 1444.* These may justly pass for the first example of a standing army in Europe; though some Italian princes had retained troops constantly in their pay, but prospectively to hostilities, which were seldom long intermitted. Fifteen companies were composed each of a hundred men at arms, or lancers; and, in the language of that age, the whole body was one thousand five hundred lances. But each lancer had three archers, a coutiller, or soldier armed with a knife, and a page or valet attached to him, all serving on horseback; so that the fifteen companies amounted to nine thousand cavalry.† From these small beginnings, as they must appear in modern times, arose the regular army of France, which every succeeding king was solicitous to augment. The ban was sometimes convoked, that is, the possessors of fiefs were called upon for military service in subsequent ages; but with more of ostentation, than real efficiency.

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feudal prin-
ciples.

The feudal compact, thus deprived of its original efficacy, soon lost the respect and attachment which had attended it. Homage and investiture became unmeaning ceremonies; the incidents of relief and aid were felt as burthensome exactions. And indeed the rapacity with which these were levied, especially by our Norman sovereigns and their barons, was of itself sufficient to extinguish all the generous feelings of vassalage. Thus galled, as it were, by the armour which he was compelled to wear, but not to use, the military tenant of England looked no longer with contempt upon the owner of land in socage, who held his estate with almost the immunities of an alodial proprietor. But the profits which the crown reaped from

* The estates at Orleans in 1439 had advised this measure, as is recited in the preamble of the ordinance, *Ordonnances des Rois*, t. xii. p. 312.

+ Daniel, *Hist. de la Milice Française*, p. 266. Villaret, *Hist. de France*, t. xv. p. 394.

wardships, and perhaps the prejudices of lawyers, prevented the abolition of military tenures till the restoration of Charles II. In France, the fiefs of noblemen were very unjustly exempted from all territorial taxation; though the tailles of later times had, strictly speaking, only superseded the aids to which they had been always liable. This distinction, it is well known, was not annihilated till that event, which annihilated all distinctions, the French revolution.

It is remarkable, that, although the feudal system established in England upon the conquest broke in very much upon our ancient Saxon liberties; though it was attended with harsher servitudes than in any other country, particularly those two intolerable burthens, wardships and marriage; yet it has in general been treated with more favour by English than French writers. The hardness with which the ancient barons resisted their sovereign, and the noble struggles which they made for civil liberty, especially in that Great Charter, the basement at least, if not the foundation, of our free constitution, have met with a kindred sympathy in the bosoms of Englishmen; while from an opposite feeling, the French have been shocked at that aristocratic independence, which cramped the prerogatives, and obscured the lustre, of their crown. Yet it is precisely to this feudal policy, that France is indebted for that which is ever dearest to her children; their national splendour and power. That kingdom would have been irretrievably dismembered in the tenth century, if the laws of feudal dependance had not preserved its integrity. Empires of unwieldy bulk, like that of Charlemagne, have several times been dissolved by the usurpation of provincial governors, as is recorded both in ancient history and in that of the Mahometan dynasties in the east. What question can there be, that the powerful dukes of Guienne or counts of Toulouse would have thrown off all connexion with the crown of France, when usurped by one of their equals, if the slight dependance of vassalage had not been substituted for legitimate subjection to a sovereign?

It is the previous state of society under the grand-children of Charlemagne, which we must always keep in mind, if we would

CHAP. II. appreciate the effects of the feudal system upon the welfare of mankind. The institutions of the eleventh century must be compared with those of the ninth, not with the advanced civilization of modern times. If the view that I have taken of those dark ages is correct, the state of anarchy, which we usually term feudal, was the natural result of a vast and barbarous empire feebly administered, and the cause, rather than effect of the general establishment of feudal tenures. These, by preserving the mutual relations of the whole, kept alive the feeling of a common country and common duties; and settled, after the lapse of ages, into the free constitution of England, the firm monarchy of France, and the federal union of Germany.

General estimate of the advantages and evils resulting from the feudal system.

The utility of any form of polity may be estimated, by its effect upon national greatness and security, upon civil liberty and private rights, upon the tranquillity and order of society, upon the increase and diffusion of wealth, or upon the general tone of moral sentiment and energy. The feudal constitution was certainly, as has been observed already, little adapted for the defence of a mighty kingdom, far less for schemes of conquest. But as it prevailed alike in several adjacent countries, none had any thing to fear from the military superiority of its neighbours. It was this inefficiency of the feudal militia, perhaps, that saved Europe during the middle ages from the danger of universal monarchy. In times, when princes had little notion of confederacies for mutual protection, it is hard to say, what might not have been the successes of an Otho the Great, a Frederic Barbarossa, or a Philip Augustus, if they could have wielded the whole force of their subjects whenever their ambition required. If an empire equally extensive with that of Charlemagne, and supported by military despotism, had been formed about the twelfth or thirteenth centuries, the seeds of commerce and liberty, just then beginning to shoot, would have perished; and Europe, reduced to a barbarous servitude, might have fallen before the free barbarians of Tartary.

If we look at the feudal polity as a scheme of civil freedom, it

bears a noble countenance. To the feudal law it is owing, that the very names of right and privilege were not swept away, as in Asia, by the desolating hand of power. The tyranny which, on every favourable moment, was breaking through all barriers, would have rioted without controul, if, when the people were poor and disunited, the nobility had not been brave and free. So far as the sphere of feudality extended, it diffused the spirit of liberty, and the notions of private right. Every one, I think, will acknowledge this, who considers the limitations of the services of vassalage, so cautiously marked in those law-books which are the records of customs, the reciprocity of obligation between the lord and his tenant, the consent required in every measure of a legislative or general nature, the security, above all, which every vassal found in the administration of justice by his peers, and even (we may in this sense say) in the trial by combat. The bulk of the people, it is true, were degraded by servitude; but this had no connexion with the feudal tenures.

The peace and good order of society were not promoted by this system. Though private wars did not originate in the feudal customs, it is impossible to doubt, that they were perpetuated by so convenient an institution, which indeed owed its universal establishment to no other cause. And as predominant habits of warfare are totally irreconcilable with those of industry, not merely by the immediate works of destruction which render its efforts unavailing, but through that contempt of peaceful occupations which they produce, the feudal system must have been intrinsically adverse to the accumulation of wealth, and the improvement of those arts, which mitigate the evils or abridge the labours of mankind.

But as a school of moral discipline, the feudal institutions were perhaps most to be valued. Society had sunk, for several centuries after the dissolution of the Roman empire, into a condition of utter depravity; where, if any vices could be selected as more eminently characteristic than others, they were falsehood, treachery and ingratitude. In slowly purging off the lees of this extreme corruption, the

CHAP. II. PART II. FEUDAL SYSTEM. feudal spirit exerted its ameliorating influence. Violation of faith stood first in the catalogue of crimes, most repugnant to the very essence of a feudal tenure, most severely and promptly avenged, most branded by general infamy. The feudal law-books breathe throughout a spirit of honourable obligation. The feudal course of jurisdiction promoted, what trial by peers is peculiarly calculated to promote, a keener feeling and readier perception of moral as well as of legal distinctions. And as the judgement and sympathy of mankind are seldom mistaken, in these great points of veracity and justice, except through the temporary success of crimes, or the want of a definite standard of right, they gradually recovered themselves, when law precluded the one, and supplied the other. In the reciprocal services of lord and vassal, there was ample scope for every magnanimous and disinterested energy. The heart of man, when placed in circumstances which have a tendency to excite them, will seldom be deficient in such sentiments. No occasions could be more favourable, than the protection of a faithful supporter, or the defence of a beneficent suzerain, against such powerful aggression, as left little prospect except of sharing in his ruin.

From these feelings engendered by the feudal relation has sprung up the peculiar sentiment of personal reverence and attachment towards a sovereign, which we denominate loyalty; alike distinguishable from the stupid devotion of eastern slaves, and from the abstract respect with which free citizens regard their chief magistrate. Men who had been used to swear fealty, to profess subjection, to follow, at home and in the field, a feudal superior and his family, easily transferred the same allegiance to the monarch. It was a very powerful feeling, which could make the bravest men put up with slights and ill treatment at the hands of their sovereign; or call forth all the energies of disinterested exertion for one whom they never saw, and in whose character there was nothing to esteem. In ages when the rights of the community were unfelt, this sentiment was one great preservative of society; and, though collateral or even

subservient to more enlarged principles, it is still indispensable to the tranquillity and permanence of every monarchy. In a moral view, loyalty has scarcely perhaps less tendency to refine and elevate the heart than patriotism itself; and holds a middle place in the scale of human motives, as they ascend from the grosser inducements of self-interest, to the furtherance of general happiness, and conformity to the purposes of Infinite Wisdom.

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THE HISTORY OF ITALY FROM THE EXTINCTION OF THE CAESARIAN EMPIRE TO THE INVASION OF SARACENS BY NORMANS.

PART I.

THE HISTORY OF ITALY FROM THE EXTINCTION OF THE CAESARIAN EMPIRE TO THE INVASION OF SARACENS BY NORMANS. PART I. THE HISTORY OF ITALY FROM THE EXTINCTION OF THE CAESARIAN EMPIRE TO THE INVASION OF SARACENS BY NORMANS. PART I. THE HISTORY OF ITALY FROM THE EXTINCTION OF THE CAESARIAN EMPIRE TO THE INVASION OF SARACENS BY NORMANS.

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CHAPTER III.

THE HISTORY OF ITALY, FROM THE EXTINCTION OF THE CARLOVINGIAN EMPERORS TO THE INVASION OF NAPLES BY CHARLES VIII.

PART I.

*State of Italy after the death of Charles the Fat—Coronation of Otho the Great—State of Rome—Conrad II.—Union of the Kingdom of Italy with the Empire—Establishment of the Normans in Naples and Sicily—Roger Guiscard—Rise of the Lombard Cities—They gradually become more independent of the Empire—Their internal Wars—Frederic Barbarossa—Destruction of Milan—Lombard League—Battle of Legnano—Peace of Constance—Temporal Principality of the Popes—Guelf and Ghibelin Factions—Otho IV.—Frederic II.—Arrangement of the Italian Republics—Second Lombard War—Extinction of the House of Swabia—Causes of the Success of Lombard Republics—Their Prosperity—and Forms of Government—Contentions between the Nobility and People—Civil Wars—Story of Giovanni di Vicenza.**

AT the death of Charles the Fat in 888, that part of Italy which acknowledged the supremacy of the western empire was divided, like France and Germany, among a few powerful vassals, hereditary governors of provinces. The principal of these were the dukes of Spoleto and Tuscany, the marquises of Ivrea, Susa, and Friuli. The great Lombard duchy of Benevento, which had stood against

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III.

PART I.

ITALY.

State of
Italy at the
end of the
ninth cen-
tury.

* The authorities upon which this chapter is founded, and which do not always appear at the foot of the page, are chiefly the following. 1. Muratori's Annals of Italy (twelve volumes in 4to. or eighteen in 8vo.) comprehend a summary of its history from the be-

ginning of the Christian æra to the peace of Aix la Chapelle. The volumes relating to the middle ages, into which he has digested the original writers contained in his great collection, *Scriptores Rerum Italicarum*, are by much the best; and of these, the part

CHAP. the arms of Charlemagne, and comprised more than half the present
 III. kingdom of Naples, had now fallen into decay, and was straightened
 PART I.

ITALY.

which extends from the seventh or eighth to the end of the twelfth century is the fullest and most useful. Muratori's accuracy is in general almost implicitly to be trusted, and his plain integrity speaks in all his writings; but his mind was not philosophical enough to discriminate the wheat from the chaff, and his habits of life induced him to annex an imaginary importance to the dates of diplomas and other inconsiderable matters. His narrative presents a mere skeleton devoid of juices; and besides its intolerable aridity, it labours under that confusion, which a merely chronological arrangement of concurrent and independent events must always produce. 2. The dissertations on Italian Antiquities, by the same writer, may be considered either as one, or two works. In Latin, they form six volumes in folio, enriched with a great number of original documents. In Italian, they are freely translated by Muratori himself, abridged no doubt, and without most of the original instruments, but well furnished with quotations, and abundantly sufficient for most purposes. They form three volumes in quarto. I have in general quoted only the number of the dissertation, on account of the variance between the Latin and Italian works: in cases where the page is referred to, I have indicated, by the title, which of the two I intend to vouch. 3. St. Marc, a learned and laborious Frenchman, has written a chronological abridgement of Italian history, somewhat in the manner of Hénault, but so strangely divided by several parallel columns in every page, that I could hardly name a book more inconvenient to the reader. His knowledge, like Muratori's, lay a good deal in points of minute inquiry; and he is chiefly to be valued in ecclesiastical history. The work descends only to the thirteenth century. 4. Denina's *Rivoluzioni d'Italia*, originally published in 1769, is a perspicuous and lively book, in which the principal circumstances are well selected. It is not perhaps free from errors in fact, and still less from those of opinion; but, till lately, I do not know from what source a general acquaintance

with the history of Italy could have been so easily derived. 5. The publication of M. Sismondi's *Histoire des Républiques Italiennes* has thrown a blaze of light around the most interesting, at least in many respects, of European countries during the middle ages. I am happy to bear witness, so far as my own studies have enabled me, to the learning and diligence of this writer; qualities, which the world is sometimes apt not to suppose, where they perceive so much eloquence and philosophy. I cannot express my opinion of M. Sismondi in this respect more strongly, than by saying that his work has almost superseded the annals of Muratori; I mean from the twelfth century, before which period his labour hardly begins. Though doubtless not more accurate than Muratori, he has consulted a much more extensive list of authors; and, considered as a register of facts alone, his history is incomparably more useful. These are combined in so skilful a manner, as to diminish, in a great degree, that inevitable confusion which arises from frequency of transition, and want of general unity. It is much to be regretted, that from too redundant details of unnecessary circumstances, and sometimes, if I may take the liberty of saying so, from unnecessary reflections, M. Sismondi has run into a prolixity which will probably intimidate the languid students of our age. It is the more to be regretted, because the *History of Italian Republics* is calculated to produce a good far more important than storing the memory with historical facts, that of communicating to the reader's bosom some sparks of the dignified philosophy, the love for truth and virtue, which lives along its eloquent pages. 6. To Muratori's collection of original writers, the *Scriptores Rerum Italicarum*, in twenty-four volumes in folio, I have paid considerable attention; perhaps there is no volume of it, which I have not more or less consulted. But, after the annals of the same writer, and the work of M. Sismondi, I have not thought myself bound to repeat a laborious search into all the authorities upon which those writers depend. The

by the Greeks in Apulia, and by the principalities of Capua and Salerno, which had been severed from its own territory, on the opposite coast.* Though princes of the Carlovingian line continued to reign in France, their character was too little distinguished to challenge the obedience of Italy, already separated by family partitions from the Transalpine nations; and the only contest was among her native chiefs. One of these, Berenger, originally marquis of Friuli or the March of Treviso, reigned for thirty-six years, but with continually disputed pretensions; and after his death, the calamities of Italy were sometimes aggravated by tyranny, and sometimes by intestine war. The Hungarians desolated Lombardy; the southern coasts were infested by the Saracens, now masters of Sicily. Plunged in an abyss from which she saw no other means of extricating herself, Italy lost sight of her favourite independence, and called in the assistance of Otho the First, king of Germany. Little opposition was made to this powerful monarch. Berenger II. the reigning sovereign of Italy, submitted to hold the kingdom of him as a fief.† But, some years afterwards, new disturbances arising, Otho descended from the Alps a second time, deposed Berenger, and received at the hands of Pope John XII. the imperial dignity, which had been suspended for nearly forty years.

Every ancient prejudice, every recollection, whether of Augustus or of Charlemagne, had led the Italians to annex the notion of sovereignty to the name of Roman Emperor; nor were Otho, or his two immediate descendants, by any means inclined to wave these supposed prerogatives which they were well able to enforce. Most of the Lombard princes acquiesced without apparent repugnance in

utility, for the most part, of perusing original and contemporary authors, consists less in ascertaining mere facts, than in acquiring that insight into the spirit and temper of their times, which it is utterly impracticable for any compiler to impart. It would be impossible for me to distinguish what information I have derived from these higher sources; in cases, therefore, where no particular autho-

rity is named, I would refer to the writings of Muratori and Sismondi, especially the latter, as the substratum of the following chapter.

* Giannone, *Istoria Civile di Napoli*, l. vii. Sismondi, *Hist. des Républiques Italiennes*, t. i. p. 244.

† Muratori, *A. D. 951. Denina, Rivoluzioni d'Italia*, l. ix. c. 6.

CHAP.
III.

PART I.

ITALY.

And in the
first part of
the tenth.

Otho the
Great.

961

CHAP. the new German government, which was conducted by Otho the
 III. Great with much prudence and vigour, and occasionally with severity.
 PART I. The citizens of Lombardy were still better satisfied with a change,
 ITALY. that ensured a more tranquil and regular administration than they
 had experienced under the preceding kings. But in one, and that
 the chief of Italian cities, there was a very different feeling. We find
 indeed a considerable obscurity spread over the internal history of
 Rome, during the long period from the recovery of Italy by Belisa-
 rius to the end of the eleventh century. The popes appear to have
 possessed some measure of temporal power, even while the city was
 professedly governed by the exarchs of Ravenna, in the name of the
 eastern empire. This power became more extensive after her separa-
 tion from Constantinople. It was however subordinate to the
 undeniable sovereignty of the new imperial family, who were sup-
 posed to enter upon all the rights of their predecessors. There was
 always an imperial officer, or prefect, in that city to render criminal
 justice; an oath of allegiance to the emperor was taken by the
 people; and upon any irregular election of a pope, a circumstance
 by no means unusual, the emperors held themselves intitled to inter-
 pose. But the spirit and even the institutions of the Romans were
 republican. Amidst the darkness of the tenth century, which no
 contemporary historian dissipates, we faintly distinguish the awful
 names of senate, consuls, and tribunes, the domestic magistracy of
 Rome. These shadows of past glory strike us at first with sur-
 prise; yet there is no improbability in the supposition, that a city so
 renowned and populous, and so happily sheltered from the usur-
 pation of the Lombards, might have preserved, or might afterwards
 establish, a kind of municipal government, which it would be natural
 to dignify with those august titles of antiquity.* During that
 anarchy which ensued upon the fall of the Carlovingian dynasty,
 while the authority and even the name of the emperors were in
 abeyance, the Romans acquired an independence, which they did

Internal
state of
Rome.

* Muratori, A. D. 967. 987. 1015. 1087. Sismondi, t. i. p. 155.

not deserve. The city became a prey to the most terrible disorders; the papal chair was sought at best by bribery, or controuling influence, often by violence and assassination; it was filled by such men as naturally rise by such means, whose sway was precarious, and generally ended either in their murder or degradation. For many years the supreme pontiffs were forced upon the church by two women of high rank, but infamous reputation, Theodora and her daughter Marozia. The kings of Italy, whose election in a diet of Lombard princes and bishops at Roncaglia was not conceived to convey any pretension to the sovereignty of Rome, could never obtain any decided influence in papal elections, which were the object of struggling factions among the resident nobility. In this temper of the Romans, they were ill disposed to resume habits of obedience to a foreign sovereign. The next year after Otho's coronation, they rebelled, the pope at their head; but were of course subdued without difficulty. The same republican spirit broke out whenever the emperors were absent in Germany, especially during the minority of Otho III. and directed itself against the temporal superiority of the pope. But when that emperor attained manhood, he besieged and took the city, crushing all resistance by measures of severity; and especially by the execution of the consul Crescentius, a leader of the popular faction, to whose investigation the tumultuous licence of Rome was principally ascribed.*

CHAP.
III.
PART I.
ITALY.

962

At the death of Otho III. without children, in 1002, the compact between Italy and the emperors of the house of Saxony was determined. Her engagement of fidelity was certainly not applicable to every sovereign whom the princes of Germany might raise to their throne. Accordingly, Ardoin marquis of Ivrea was elected king of Italy. But a German party existed among the Lombard princes and bishops, to which his insolent demeanour soon gave a pretext

Henry II.
and Ardoin.

* Sismondi, t. i. p. 164. makes a patriot hero of Crescentius. But we know so little of the man or the times, that it seems better

to follow the common tenor of history, without vouching for the accuracy of its representations.

CHAP. for inviting Henry II., the new king of Germany, collaterally related
 III. to their late sovereign. Ardoin was deserted by most of the Italians,
 PART I. but retained his former subjects in Piedmont, and disputed the
 ITALY. crown for many years with Henry, who passed very little time in
 Italy. During this period there was hardly any recognized govern-
 ment; and the Lombards became more and more accustomed,
 through necessity, to protect themselves, and to provide for their own
 internal police. Meanwhile the German nation had become odious
 to the Italians. The rude soldiery, insolent and addicted to intoxi-
 cation, were engaged in frequent disputes with the citizens, wherein
 the latter, as is usual in similar cases, were exposed first to the sum-
 mary vengeance of the troops, and afterwards to penal chastisement
 for sedition.* In one of these tumults, at the entry of Henry II. in
 1004, the city of Pavia was burned to the ground, which inspired its
 inhabitants with a constant animosity against that emperor. Upon
 his death in 1024, the Italians were disposed to break once more
 their connexion with Germany, which had elected as sovereign
 Conrad, duke of Franconia. They offered their crown to Robert
 king of France, and to William duke of Guienne; but neither of
 them was imprudent enough to involve himself in the difficult and
 faithless politics of Italy. It may surprize us that no candidate
 appeared from among her native princes. But it had been the
 dexterous policy of the Othos to weaken the great Italian fiefs,
 which were still rather considered as hereditary governments, than
 as absolute patrimonies, by separating districts from their jurisdic-
 tion, under inferior marquises and rural counts.† The bishops were
 incapable of becoming competitors, and generally attached to the
 German party. The cities already possessed material influence,
 but were disunited by mutual jealousies. Since antient prejudices,
 therefore, precluded a federate league of independent principalities
 and republics, for which perhaps the actual condition of Italy un-

Election of
 Conrad II.
 1024

* Muratori, A. D. 1027. 1037.

† Denina, l. ix. c. 11. Muratori, Antiq.
 Ital. Dissert. 8. Annali d'Italia. A. D. 989.

fitted her, Eribert archbishop of Milan, accompanied by some other chief men of Lombardy, repaired to Constance, and tendered the crown to Conrad, which he was already disposed to claim as a sort of dependency upon Germany. It does not appear that either Conrad, or his successors, were ever regularly elected to reign over Italy;* but whether this ceremony took place or not, we may certainly date from that time the subjection of Italy to the Germanic body. It became an unquestioned maxim, that the votes of a few German princes conferred a right to the sovereignty of a country which had never been conquered, and which had never formally recognized this superiority.† But it was an equally fundamental rule, that the elected king of Germany could not assume the title of Roman Emperor, until his coronation by the pope. The middle appellation of King of the Romans was invented as a sort of approximation to the imperial dignity. But it was not till the reign of Maximilian that the actual coronation at Rome was dispensed with, and the title of emperor taken immediately after the election.

The period between Conrad of Franconia and Frederic Barbarossa, or from about the middle of the eleventh to that of the twelfth century, is marked by three great events in Italian history; the struggle between the empire and the papacy for ecclesiastical investitures, the establishment of the Norman kingdom in Naples, and the formation of distinct and nearly independent republics among the cities of Lombardy. The first of these will find a more appropriate place in a subsequent chapter, where I shall trace the pro-

* Muratori, A. D. 1026. It is said afterwards, p. 367, that he was a Romanis ad Imperatorem electus. The people of Rome therefore preserved their nominal right of concurring in the election of an emperor. Muratori, in another place, A. D. 1040, supposes that Henry III. was chosen king of Italy, though he allows that no proof of it exists; and there seems no reason for the supposition.

† Gunther, the poet of Frederic Barbarossa, expresses this not inelegantly.

Romani gloria regni

Nos penes est; quemcunque sibi Germania regem
Præficit, hunc dives submisso vertice Roma
Accipit, et verso Tiberim regit ordine Rhenus.

Gunther. Ligurinus ap. Struvium
Corpus Hist. German. p. 266.

Yet it appears from Otho of Frisingen, an unquestionable authority, that some Italian nobles concurred, or at least were present and assisting, in the election of Frederic himself. l. ii. c. l.

CHAP. gress of ecclesiastical power. But it produced a long and almost
 III. incessant state of disturbance in Italy; and should be mentioned at
 PART I. present, as one of the main causes which excited in that country a
 ITALY. systematic opposition to the imperial authority.

Greek provinces of
 southern
 Italy.

The southern provinces of Italy, in the beginning of the eleventh century, were chiefly subject to the Greek empire, which had latterly recovered part of its losses, and exhibited some ambition and enterprise, though without any intrinsic vigour. They were governed by a lieutenant, styled Catapan,* who resided at Bari in Apulia. On the Mediterranean coast, three duchies or rather republics, of Naples, Gaeta, and Amalfi, had for several ages preserved their connexion with the Greek empire, and acknowledged its nominal sovereignty: The Lombard principalities of Benevento, Salerno and Capua had much declined from their ancient splendour. The Greeks were, however, not likely to attempt any further conquests; the court of Constantinople had relapsed into its usual indolence; nor had they much right to boast of successes, rather due to the Saracen auxiliaries, whom they hired from Sicily. No momentous revolution apparently threatened the south of Italy, and least of all could it be anticipated from what quarter the storm was about to gather.

Settlement
 of the Nor-
 mans at
 Aversa.

The followers of Rollo, who rested from plunder and piracy in the quiet possession of Normandy, became devout professors of the christian faith, and particularly addicted to the custom of pilgrimage, which gratified their curiosity and spirit of adventure. In small bodies, well armed, on account of the lawless character of the countries through which they passed, the Norman pilgrims visited the shrines of Italy, and even the Holy Land. Some of these, very early in the eleventh century, were engaged by a Lombard prince of Salerno against the Saracens, who had invaded his territory; and through that superiority of valour, and perhaps of corporal strength, which this singular people seem to have possessed above all other Europeans, they made surprising havoc among the

* Catapanus, from *κατὰ πᾶν*, one employed in general administration of affairs.

enemy.* This exploit led to fresh engagements, and these engagements drew new adventurers from Normandy; they founded the little city of Aversa near Capua, and were employed by the Greeks against the Saracens of Sicily. But, though performing splendid services in this war, they were ill repaid by their ungrateful employers; and being by no means of a temper to bear with injury, they revenged themselves by a sudden invasion of Apulia. This province was speedily subdued, and divided among twelve Norman counts; but soon afterwards Robert Guiscard, one of twelve brothers, many of whom were renowned in these Italian wars, acquired the sovereignty; and adding Calabria to his conquests, put an end to the long dominion of the Eastern emperors in Italy.† He reduced the principalities of Salerno and Benevento, in the latter instance sharing the spoil with the pope, who took the city to himself, while Robert retained the territory. His conquests in Greece, which he invaded with the magnificent design of overthrowing the Eastern empire, were at least equally splendid, though less durable. Roger, his younger brother, undertook meanwhile the romantic enterprize, as it appeared, of conquering the island of Sicily, with a small body of Norman volunteers. But the Saracens were broken into petty states, and discouraged by the bad success of their brethren in Spain and Sardinia. After many years of war, Roger became sole master of Sicily, and took the title of Count. The son of this prince, upon the extinction of Robert Guiscard's posterity, united the two Norman sovereignties, and subjugating the free republics of Naples and Amalfi, and the principality of Capua, established a boundary which has hardly been changed since his time.‡

1042

Conquests
of Robert
Guiscard.

1057

1061

1127

* Giannone, t. ii. p. 7. [edit. 1753.] I should observe, that St. Marc, a more critical writer in examination of facts than Giannone, treats this first adventure of the Normans as unauthenticated. *Abrégé Chronologique*, p. 990.

† The final blow was given to the Greek domination over Italy by the capture of Bari in 1071, after a siege of four years.

It had for some time been confined to this single city. Muratori, St. Marc.

‡ M. Sismondi has excelled himself in describing the conquest of Amalfi and Naples by Roger Guiscard; (t. i. c. 4.) warming his imagination with visions of liberty and virtue in those obscure republics, which no real history survives to dispel.

CHAP.

III.

PART I.

ITALY.

Papal investitures of Naples.

The first successes of these Norman leaders were viewed unfavourably by the popes. Leo IX. marched in person against Robert Guiscard with an army of German mercenaries, but was beaten and made prisoner in this unwise enterprize, the scandal of which nothing but good fortune could have lightened. He fell, however, into the hands of a devout people, who implored his absolution for the crime of defending themselves; and whether through gratitude, or as the price of his liberation, invested them with their recent conquests in Apulia, as fiefs of the Holy See. This investiture was repeated and enlarged, as the popes, especially in their contention with Henry IV. and Henry V. found the advantage of using the Normans as faithful auxiliaries. Finally, Innocent II., in 1139, conferred upon Roger the title of king of Sicily. It is difficult to understand by what pretence these countries could be claimed by the See of Rome in sovereignty, unless by virtue of the pretended donation of Constantine, or that of Louis the Debonair, which is hardly less suspicious;* and least of all how Innocent II. could surrender the liberties of the city of Naples, whether that were considered as an independent republic, or as a portion of the Greek empire. But the Normans, who had no title but their swords, were naturally glad to give an appearance of legitimacy to their conquest, and the kingdom of Naples, even in the hands of the most powerful princes in Europe, never ceased to pay a feudal acknowledgement to the chair of St. Peter.

Progress of the Lombard cities.

The revolutions which time brought forth on the opposite side of Italy were still more interesting. Under the Lombard and French princes, every city with its adjacent district was subject to the government and jurisdiction of a count, who was himself subordinate to the duke or marquis of the province. From these counties it was the practice of the first German emperors to dismember particular

* Muratori presumes to suppose, that the interpolated, if not spurious, grants of Louis the Debonair, Otho I. and Henry II. to the See of Rome were promulgated about the

time of the first concessions to the Normans, in order to give the popes a colourable pretext to dispose of the southern provinces of Italy. A. D. 1059.

towns or tracts of country, granting them upon a feudal tenure to rural lords, by many of whom also the same title was assumed. Thus by degrees the authority of the original officers was confined almost to the walls of their own cities; and in many cases the bishop obtained a grant of the temporal government, and exercised the functions which the count had possessed.*

CHAP.
III.
PART I.
ITALY.

It is impossible to ascertain the time at which the cities of Lombardy began to assume a republican form of government, or to trace with precision the gradations of their progress. The last historian of Italy asserts, that Otho the First erected them into municipal communities, and permitted the election of their magistrates; but of this he produces no evidence; and Muratori, from whose authority it is rash to depart without strong reasons, is not only silent about any charters, but discovers no express unequivocal testimonies of a popular government for the whole eleventh century.† The first appearance of the citizens acting for themselves, is in a tumult at Milan in 991, when the archbishop was expelled from the city.‡ But this was a transitory ebullition, and we must descend lower for more specific proofs. It is possible that the disputed succession of Ardoïn and Henry, at the beginning of the eleventh age, and the kind of interregnum which then took place, gave the inhabitants an opportunity of chusing magistrates and of sharing in public deliberations. A similar relaxation indeed of government in France had exposed the people to greater servitude, and established a feudal aristocracy. But the feudal tenures seem not to have produced in Italy that systematic and regular subordination which existed in France during the same period; nor were the mutual duties of the relation between lord and vassal so well understood or observed. Hence we find not only disputes, but actual civil war between the lesser gentry or vavassors, and the higher nobility, their immediate superiors. These differences were

* Muratori, *Antiquit. Italiæ*, Dissert. 8. *Annali d'Italia* A. D. 989. *Antichità Estensi*, p. 26.

† Sismondi, t. i. p. 97. 384. Muratori, Dissert. 49.

‡ Muratori, *Annali d'Italia*.

CHAP. adjusted by Conrad the Salic, who published a remarkable edict in
 III. 1037, by which the feudal law of Italy was reduced to more
 PART I. certainty.* From this disunion among the members of the feudal
 ITALY. confederacy, it was more easy for the citizens to render themselves
 secure against its dominion. The cities too of Lombardy were far
 more populous and better defended than those of France; they had
 learned to stand sieges in the Hungarian invasions of the tenth
 century, and had acquired the right of protecting themselves by
 strong fortifications. Those which had been placed under the
 temporal government of their bishops had peculiar advantages in
 struggling for emancipation.† This circumstance in the state of
 Lombardy I consider as highly important towards explaining the
 subsequent revolution. Notwithstanding several exceptions, a
 churchman was less likely to be bold and active in command than
 a soldier; and the sort of election which was always necessary, and
 sometimes more than nominal, on a vacancy of the see, kept up
 among the citizens a notion that the authority of their bishop and
 chief magistrate emanated in some degree from themselves. In
 many instances, especially in the church of Milan, the earliest
 perhaps, and certainly the most famous of Lombard republics,
 there occurred a disputed election; two, or even three, competitors
 claimed the archiepiscopal functions, and were compelled, in the

* Muratori, *Annali d'Italia*. St. Marc.

† The bishops seem to have become counts, or temporal governors, of their sees, about the end of the tenth, or before the middle of the eleventh century. Muratori, *Diss.* 8. *Denina*, l. ix. c. 11. St. Marc. A. D. 1041. 1047. 1070. In Arnulf's *History of Milan*, written before the close of the latter age, we have a contemporary evidence. And from the perusal of that work I should infer, that the archbishop, at least till the middle of the eleventh century, was the chief magistrate of the city. But, at the same time, it appears highly probable, that an assembly of the citizens, or at least a part of the citizens, partook in the administration of

public affairs. Muratori, *Scriptores Rerum Italicarum*, t. iv. p. 16. 22, 23. and particularly the last. In most cities to the eastward of the Tesino, the bishops lost their temporal authority in the twelfth century, though the archbishop of Milan had no small prerogatives, while that city was governed as a republic. But in Piedmont, they continued longer in the enjoyment of power. Vercelli and even Turin were almost subject to their respective prelates till the thirteenth century. For this reason among others, the Piedmontese cities are hardly to be reckoned among the republics of Lombardy. *Denina*, *Istoria dell' Italia Occidentale*, t. i. p. 191.

absence of the emperors, to obtain the exercise of them by means of their own faction among the citizens.*

These were the general causes, which, operating at various times during the eleventh century, seem gradually to have produced a republican form of government in the Italian cities. But this part of history is very obscure. The archives of all cities before the reign of Frederic Barbarossa have perished. For many years, there is a great deficiency of contemporary Lombard historians, and those of a later age, who endeavoured to search into the antiquities of their country, have found only some barren and insulated events to record. We perceive, however, throughout the eleventh century, that the cities were continually in warfare with each other. This indeed was according to the manners of that age, and no inference can absolutely be drawn from it as to their internal freedom. But it is observable, that their chronicles speak, in recording these transactions, of the people, and not of their leaders, which is the true republican tone of history. Thus, in the Annals of Pisa, we read, under the years 1002 and 1004, of victories gained by the Pisans over the people of Lucca; in 1006, that the Pisans and Genoese conquered Sardinia.† These Annals indeed are not by a contemporary writer, nor perhaps of much authority. But we have an original account of a war that broke out, in 1057, between Pavia and

CHAP.
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ITALY.

* Muratori, A. D. 1045. Sometimes the inhabitants of a city refused to acknowledge a bishop named by the emperor, as happened at Pavia and Asti about 1057. Arnulf, p. 22. This was, in other words, setting up themselves as republics. But the most remarkable instance of this kind occurred in 1070, when the Milanese absolutely rejected Godfrey, appointed by Henry IV. and after a resistance of several years, obliged the emperor to fix upon another person. The city had been previously involved in long and violent tumults, which, though rather belonging to ecclesiastical than civil history, as they arose out of the endeavours made to reform the conduct and enforce the celibacy of the clergy, had a considerable tendency to

diminish the archbishop's authority, and to give a republican character to the inhabitants. These proceedings are told at great length by St. Marc, t. iii. A. D. 1056—1077. Arnulf and Landulf are the original sources.

† Murat. Diss. 45. Arnulfus, the historian of Milan, makes no mention of any temporal counts, which seems to be a proof that there were none in any authority. He speaks always of Mediolanenses, Papienses, Ravenates, &c. This history was written about 1085, but relates to the earlier part of that century. That of Landulfus corroborates this supposition, which indeed is capable of proof as to Milan and several other cities, in which the temporal government had been legally vested in the bishops.

CHAP. III. PART I. ITALY. Milan, in which the citizens are said to have raised armies, made alliances, hired foreign troops, and in every respect acted like independent states.* There was, in fact, no power left in the empire to controul them. The two Henrys, IV. and V., were so much embarrassed during the quarrel concerning investitures, and the continual troubles of Germany, that they were less likely to interfere with the rising freedom of the Italian cities, than to purchase their assistance by large concessions. Henry IV. granted a charter to Pisa, in 1081, full of the most important privileges, promising even not to name any marquis of Tuscany without the people's consent;† and it is possible, that although the instruments have perished, other places might obtain similar advantages. However this may be, it is certain that before the death of Henry V., in 1125, almost all the cities of Lombardy, and many among those of Tuscany, were accustomed to elect their own magistrates, and to act as independent communities in waging war and in domestic government.‡

Their acquisitions of territory.

The territory subjected originally to the count or bishop of these cities had been reduced, as I mentioned above, by numerous concessions to the rural nobility. But the new republics, deeming themselves entitled to all which their former governors had once possessed, began to attack their nearest neighbours, and to recover the sovereignty of all their ancient territory. They besieged the castles of the rural counts, and successively reduced them into subjection. They suppressed some minor communities, which had been formed in imitation of themselves by little towns belonging to their district. Sometimes they purchased feudal superiorities or territorial jurisdictions, and, according to a policy not unusual with the stronger party, converted the rights of property into those of government.§ Hence, at the middle of the twelfth century, we are

* Murat. Diss. 45. Arnulf. Hist. Mediolan. p. 22.

† Murat. Dissert. 45.

‡ Murat. Annali d' Ital. A. D. 1107.

§ Il dominio utile delle città e de' villaggi era talvolta diviso fra due o più padroni,

ossia che s'assegnassero a ciascuno diversi quartieri, o si dividessero i proventi delle gabelle, ovvero che l'uno signore godesse d'una specie della giurisdizione, e l'altro d'un'altra. Denina, l. xii. c. 3. This produced a vast intricacy of titles, which was of

assured by a contemporary writer, that hardly any nobleman could be found, except the marquis of Montferrat, who had not submitted to some city.* We may except also, I should presume, the families of Este and Malaspina, as well as that of Savoy. Muratori produces many charters of mutual compact between the nobles and the neighbouring cities; whereof one invariable article is, that the former should reside within the walls a certain number of months in the year.† The rural nobility, thus deprived of the independence which had endeared their castles, imbibed a new ambition of directing the municipal government of the cities, which, during the first period of the republics, was chiefly in the hands of the superior families. It was the sagacious policy of the Lombards to invite settlers by throwing open to them the privileges of citizenship, and sometimes they even bestowed them by compulsion. Sometimes a city, imitating the wisdom of ancient Rome, granted these privileges to all the members of another.‡ Thus the principal cities, and especially Milan, reached before the middle of the twelfth century a degree of population very far beyond that of the capitals of the great kingdoms. Within their strong walls and deep trenches, and in the midst of their well peopled streets, the industrious dwelt secure from the licence of armed pillagers and the oppression of feudal tyrants. Artizans, whom the military landholders contemned, acquired and deserved the right of bearing arms for their own and the public defence.§ Their occupations became liberal, because they were the foundation of their political franchises; the citizens were classed in companies according to their respective crafts; each of which had its tribune or standard-bearer, (gonfalonier) under whose command, when any tumult arose or

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course advantageous to those who wanted a pretext for robbing their neighbours.

* Otho Frisingens. l. ii. c. 13.

† Murat. Diss. 49.

‡ Ibid.

§ Otho Frisingensis ap. Murat. Scr. Rer. Ital. t. vi. p. 708. Ut etiam ad comprimendos vicinos materiâ non careant, inferioris or-

dinis juvenes, vel quoslibet contemptibilium etiam mechanicarum artium opifices, quos cæteræ gentes ab honestioribus et liberioribus studiis tanquam pestem propellunt, ad militiæ cingulum, vel dignitatum gradus assumere non dedignantur. Ex quo factum est, ut cæteris orbis civitatibus, divitiis et potentiâ præemineant.

CHAP. enemy threatened, they rushed in arms to muster in the market-
 III. place.

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ITALY.

Their mutual animosities.

But, unhappily, we cannot extend the sympathy, which institutions so full of liberty create, to the national conduct of these little republics. Their love of freedom was alloyed by that restless spirit, from which a democracy is seldom exempt, of tyrannizing over weaker neighbours. They played over again the tragedy of ancient Greece, with all its circumstances of inveterate hatred, unjust ambition, and atrocious retaliation, though with less consummate actors upon the scene. Among all the Lombard cities, Milan was the most conspicuous, as well for power and population, as for the abuse of those resources by arbitrary and ambitious conduct. Thus in 1111, they razed the town of Lodi to the ground, distributing the inhabitants among six villages, and subjecting them to an unrelenting despotism.* Thus in 1118, they commenced a war of ten years duration with the little city of Como; but the surprising perseverance of its inhabitants procured for them better terms of capitulation, though they lost their original independence. The Cremonese treated so harshly the town of Crema, that it revolted from them, and put itself under the protection of Milan. Cities of more equal forces carried on interminable hostilities by wasting each other's territory, destroying the harvests, and burning the villages.

Sovereignty of the emperors.

The sovereignty of the emperors, meanwhile, though not very effective, was in theory always admitted. Their name was used in public acts, and appeared upon the coin. When they came into Italy, they had certain customary supplies of provisions called *fodrum regale*, at the expense of the city where they resided;

* The animosity between Milan and Lodi was of very old standing. It originated, according to Arnulf, in the resistance made by the inhabitants of the latter city to an attempt made by Archbishop Eribert to force a bishop of his own nomination upon them. The bloodshed, plunder, and conflagrations

which had ensued, would, he says, fill a volume, if they were related at length. *Scriptores Rerum Italic. t. iv. p. 16.* And this is the testimony of a writer who did not live beyond 1085. Seventy years more, either of hostility or servitude, elapsed, before Lodi was permitted to respire.

during their presence, all inferior magistracies were suspended, and the right of jurisdiction devolved upon them alone. But such was the jealousy of the Lombards, that they built the royal palaces without their gates; a precaution, to which the emperors were compelled to submit. This was at a very early time a subject of contention between the inhabitants of Pavia and Conrad II., whose palace, seated in the heart of the city, they had demolished in a sedition, and were unwilling to rebuild in that situation.*

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Such was the condition of Italy when Frederic Barbarossa, duke of Swabia, and nephew of the last emperor, Conrad III., ascended the throne of Germany. His accession forms the commencement of a new period, the duration of which is about one hundred years, and which is terminated by the death of Conrad IV., the last emperor of the house of Swabia. It is characterized, like the former, by three distinguishing features in Italian history; the victorious struggle of the Lombard and other cities for independence, the final establishment of a temporal sovereignty over the middle provinces by the popes, and the union of the kingdom of Naples to the dominions of the house of Swabia.

Frederic
Barbarossa.

In Frederic Barbarossa the Italians found a very different sovereign from the two last emperors, Lothaire and Conrad III., who had seldom appeared in Italy, and with forces quite inadequate to controul such insubordinate subjects. The distinguished valour and ability of this prince rendered a severe and arbitrary temper and a haughty conceit of his imperial rights more formidable. He believed, or professed to believe, the magnificent absurdity, that, as successor of Augustus, he inherited the kingdoms of the world. In the same right, he more powerfully, if not more rationally, laid claim to the entire prerogatives of the Roman emperors over their own subjects; and in this the professors of the civil law, which was now diligently studied, lent him their aid with the utmost servility. To such a disposition the self-government of the Lombard cities

* Otho Frisingensis, p. 710. Muratori, A.D. 1027.

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appeared mere rebellion. Milan, especially, the most renowned of them all, drew down upon herself his inveterate resentment. He found, unfortunately, too good a pretence in her behaviour towards Lodi. Two natives of that ruined city threw themselves at the emperor's feet, imploring him, as the ultimate source of justice, to redress the wrongs of their country. It is a striking proof of the terror inspired by Milan, that the consuls of Lodi disavowed the complaints of their countrymen, and the inhabitants trembled at the danger of provoking a summary vengeance, against which the imperial arms seemed no protection.* The Milanese, however, abstained from attacking the people of Lodi, though they treated with contempt the emperor's order to leave them at liberty. Frederic, meanwhile, came into Italy, and held a diet at Roncaglia, where complaints poured in from many quarters against the Milanese. Pavia and Cremona, their ancient enemies, were impatient to renew hostilities under the imperial auspices. Brescia, Tortona, and Crema were allies, or rather dependants, of Milan. Frederic soon took occasion to attack the latter confederacy. Tortona was compelled to surrender, and levelled to the ground. But a feudal army was soon dissolved; the emperor had much to demand his attention at Rome, where he was on ill terms with Adrian IV.; and when the imperial troops were withdrawn from Lombardy, the Milanese rebuilt Tortona, and expelled the citizens of Lodi from their dwellings. Frederic assembled a fresh army, to which almost every city of Lombardy, willingly or by force, contributed its militia. It is said to have exceeded a hundred thousand men. The Milanese shut themselves up within their walls; and perhaps might have defied the imperial forces, if their immense population, which gave them confidence in arms, had not exposed them to a different enemy. Milan was obliged by hunger to capi-

* See an interesting account of these circumstances in the narrative of Otho Morena, a citizen of Lodi. *Scrip. Rer. Ital.* t. vi. p. 966. M. Sismondi, who reproaches Morena for partiality towards Frederic in the Milanese war, should have remembered the provocations of Lodi. *Hist. des Républ. Ital.* t. ii. p. 102.

tulate, upon conditions not very severe, if a vanquished people could ever safely rely upon the convention that testifies their submission.

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ITALY.

Diet of
Roncaglia.

Frederic, after the surrender of Milan, held a diet at Roncaglia, where the effect of his victories was fatally perceived. The bishops, the higher nobility, the lawyers, vied with one another in exalting his prerogatives. He defined the regalian rights, as they were called, in such a manner as to exclude the cities and private proprietors from coining money, and from tolls or territorial dues, which they had for many years possessed. These, however, he permitted them to retain for a pecuniary stipulation. A more important innovation was the appointment of magistrates, with the title of Podestà, to administer justice, concurrently with the consuls; but he soon proceeded to abolish the latter office in many cities, and to throw the whole government into the hands of his own magistrates. He prohibited the cities from levying war against each other. It may be presumed, that he shewed no favour to Milan. The capitulation was set at nought in its most express provisions; a podestà was sent to supersede the consuls, and part of the territory taken away. Whatever might be the risk of resistance, and the Milanese had experience enough not to undervalue it, they were determined rather to see their liberties at once overthrown, than gradually destroyed by a faithless tyrant. They availed themselves of the absence of his army to renew the war. Its issue was more calamitous than that of the last. Almost all Lombardy lay patient under subjection. The small town of Crema, always the faithful ally of Milan, stood a memorable siege against the imperial army; but the inhabitants were ultimately compelled to capitulate for their lives, and the vindictive Cremonese razed their dwellings to the ground.* But all smaller calamities were forgotten, when the great

* The siege of Crema is told at great length by Otto Morena; it is interesting, not only as a display of extraordinary, though unsuccessful, perseverance and intrepidity, but as the most detailed account of the me-

thods used in the attack and defence of fortified places, before the introduction of artillery. *Scrip. Rer. Ital.* t. vi. p. 1032—1052.

CHAP. city of Milan, worn out by famine, rather than subdued by force,
 III. was reduced to surrender at discretion. Lombardy stood in anxious
 PART I. suspense to know the determination of Frederic respecting this
 ITALY. ancient metropolis, the seat of the early Christian emperors, and
 Capture and second only to Rome in the hierarchy of the Latin church. A delay
 destruction of Milan. of three weeks excited fallacious hopes; but at the end of that time,
 an order was given to the Milanese to evacuate their habitations.
 The deserted streets were instantly occupied by the imperial army;
 the people of Pavia and Cremona, of Lodi and Como, were com-
 missioned to revenge themselves on the respective quarters of the
 city assigned to them; and in a few days, the pillaged churches
 stood alone amidst the ruins of what had been Milan.

1162

There was now little left of that freedom to which Lombardy had aspired: it was gone like a pleasant dream, and she awoke to the fears and miseries of servitude. Frederic obeyed the dictates of his vindictive temper, and of the policy usual among statesmen. He abrogated the consular regimen in some even of the cities which had supported him, and established his podestà in their place. This magistrate was always a stranger, frequently not even an Italian; and he came to his office with all those prejudices against the people he was to govern, which cut off every hope of justice and humanity. The citizens of Lombardy, especially the Milanese, who had been dispersed in the villages adjoining their ruined capital, were unable to meet the perpetual demands of tribute. In some parts, it is said, two thirds of the produce of their lands, the only wealth that remained, were extorted from them by the imperial officers. It was in vain that they prostrated themselves at the feet of Frederic. He gave at the best only vague promises of redress; they were in his eyes rebels, his delegates had acted as faithful officers, whom, even if they had gone a little beyond his intentions, he could not be expected to punish.

But there still remained, at the heart of Lombardy, the strong principle of national liberty, imperishable among the perishing armies of her patriots, unconsumable in the conflagration of her

cities.* Those whom private animosities had led to assist the German conqueror, blushed at the degradation of their country, and at the share they had taken in it. A league was secretly formed, in which Cremona, one of the chief cities on the imperial side, took a prominent part. Those beyond the Adige, hitherto not much engaged in the disputes of central Lombardy, had already formed a separate confederacy, to secure themselves from encroachments, which appeared the more unjust, as they had never borne arms against the emperor. Their first successes corresponded to the justice of their cause; Frederic was repulsed from the territory of Verona, a fortunate augury for the rest of Lombardy. These two clusters of cities, on the east and west of the Adige, now united themselves into the famous Lombard League, the terms of which were settled in a general diet. Their alliance was to last twenty years; during which they pledged themselves to mutual assistance against any one who should exact more from them than they had been used to perform from the time of Henry, to the first coming of Frederic into Italy; implying in this, the recovery of their elective magistracies, their rights of war and peace, and those lucrative privileges, which, under the name of regalian, had been wrested from them in the diet of Roncaglia.†

This union of the Lombard cities was formed at a very favourable juncture. Frederic had almost ever since his accession been engaged in open hostility with the see of Rome, and was pursuing the fruitless policy of Henry IV., who had endeavoured to substitute

* Quæ neque Dardaniis campis potuere
perire,
Nec cum capta capi, nec cum com-
busta cremari.

Ennius.

† For the nature and conditions of the Lombard league, besides the usual authorities, see Muratori's 48th dissertation. The words, a tempore Henrici regis usque ad introitum imperatoris Frederici, leave it ambiguous, which of the Henries was intended. Muratori thinks it was Henry IV.,

because the cities then began to be independent. It seems however natural, when a king is mentioned without any numerical designation, to interpret it of the last bearing that name; as we say King William, for William the Third. And certainly the liberties of Lombardy were more perfect under Henry V. than his father: besides which, the one reign might still be remembered, and the other rested in tradition. The question however is of little moment.

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III.

PART I.

ITALY.

League of
Lombardy
against
Frederic.

1167

1164

CHAP. an antipope of his own faction for the legitimate pontiff. In the
 III. prosecution of this scheme, he had besieged Rome with a great
 PART I. army, which, the citizens resisting longer than he expected, fell a
 ITALY. prey to the autumnal pestilence that visits the neighbourhood of that
 capital. The flower of German nobility was cut off by this calamity, and the emperor recrossed the Alps, entirely unable for the present to withstand the Lombard confederacy. Their first overt act of insurrection was the rebuilding of Milan; the confederate troops all joined in this undertaking; and the Milanese, still numerous, though dispersed and persecuted, revived as a powerful republic. Lodi was compelled to enter into the league; Pavia alone continued on the imperial side. As a check to Pavia, and to the marquis of Montferrat, the most potent of the independent nobility, the Lombards planned the erection of a new city, between the confines of these two enemies, in a rich plain to the south of the Po, and bestowed upon it, in compliment to the pope, Alexander III., the name of Alessandria. Though from its hasty construction, Alessandria was, even in that age, deemed rude in appearance, it rapidly became a thriving and populous city.* The intrinsic energy and resources of Lombardy were now made manifest. Frederic, who had triumphed by their disunion, was unequal to contend against their league. After several years of indecisive war, the emperor invaded the Milanese territory; but the confederates gave him battle, and gained a complete victory at Legnano. Frederic escaped alone and disguised from the field, with little hope of raising a fresh army, though still reluctant from shame to acquiesce in the freedom of Lombardy. He was at length persuaded, through the mediation of the republic of Venice, to consent to a truce of six years, the provisional terms of which were all favourable to the league. It was weakened, however, by the defection of some of its own

Battle of
Legnano.

1176

* Alessandria was surnamed, in derision, della paglia; from the thatch with which the houses were covered. Frederic was very desirous to change its name to Cæsarea, as

it is actually called in the peace of Constance, being at that time on the imperial side. But it soon recovered its former appellation.

members; Cremona, which had never cordially united with her
 ancient enemies, made separate conditions with Frederic, and
 suffered herself to be named among the cities on the imperial side in
 the armistice. Tortona and even Alessandria followed the same
 course during the six years of its duration: a fatal testimony of
 unsubdued animosities, and omen of the calamities of Italy. At
 the expiration of the truce, Frederic's anxiety to secure the crown
 for his son overcame his pride, and the famous peace of Constance
 established the Lombard republics in real independence.

CHAP.
 III.
 PART I.
 ITALY.

Peace of
 Constance.

1183.

By the treaty of Constance, the cities were maintained in the
 enjoyment of all the regalian rights, whether within their walls or in
 their district, which they could claim by usage. Those of levying
 war, of erecting fortifications, and of administering civil and criminal
 justice, were specially mentioned. The nomination of their consuls,
 or other magistrates, was left absolutely to the citizens; but they
 were to receive the investiture of their office from an imperial legate.
 The customary tributes of provision during the emperor's residence
 in Italy were preserved; and he was authorized to appoint in every
 city a judge of appeal in civil causes. The Lombard league was
 confirmed, and the cities were permitted to renew it at their own
 discretion; but they were to take every ten years an oath of fidelity
 to the emperor. This just compact preserved, along with every
 security for the liberties and welfare of the cities, as much of the
 imperial prerogative, as could be exercised by a foreign sovereign,
 consistently with the people's happiness.*

The successful insurrection of Lombardy is a memorable refuta-
 tion of that system of policy to which its advocates give the appel-
 lation of vigorous, and which they perpetually hold forth as the
 only means, through which a disaffected people are to be restrained.
 By a certain class of statesmen, and by all men of harsh and vio-
 lent disposition, measures of conciliation, adherence to the spirit of
 treaties, regard to ancient privileges, or to those rules of moral jus-

* Muratori, *Antiquitates Italiæ*, Diss. 50.

CHAP. tice which are paramount to all positive right, are always treated
 III. with derision. Terror is their only specific, and the physical inabi-
 PART I. lity to rebel their only security for allegiance. But if the razing of
 ITALY. cities, the abrogation of privileges, the impoverishment and oppres-
 sion of a nation could assure its constant submission, Frederic Bar-
 barossa would never have seen the militia of Lombardy arrayed
 against him at Legnano. Whatever may be the pressure upon a con-
 quered people, there will come a moment of their recoil. Nor is it
 material to alledge, in answer to the present instance, that the acci-
 dental destruction of Frederic's army by disease enabled the cities
 of Lombardy to succeed in their resistance. The fact may well be
 disputed; since Lombardy, when united, appears to have been more
 than equal to a contest with any German force that could have been
 brought against her; but, even if we admit the effect of this cir-
 cumstance, it only exhibits the precariousness of a policy, which
 collateral events are always liable to disturb. Providence reserves
 to itself various means, by which the bonds of the oppressor may be
 broken; and it is not for human sagacity to anticipate, whether the
 army of a conqueror shall moulder in the unwholesome marshes of
 Rome, or stiffen with frost in a Russian winter.

The peace of Constance presented a noble opportunity to the
 Lombards of establishing a permanent federal union of small re-
 publics; a form of government congenial from the earliest ages to
 Italy, and that, perhaps, under which she is again destined one day
 to flourish. They were entitled by the provisions of that treaty to
 preserve their league, the basis of a more perfect confederacy,
 which the course of events would have emancipated from every
 kind of subjection to Germany.* But dark long cherished hatreds,

* Though there was no permanent diet of the Lombard league, the consuls and podestas of the respective cities composing it occasionally met in congress, to deliberate upon measures of general safety. Thus assembled, they were called *Rectores Societatis Lombardiæ*. It is evident, that if Lombardy had continued in any degree to preserve the spirit of union, this congress might readily have become a permanent body, like the Helvetic diet, with as extensive powers as are necessary in a federal constitution. Muratori, *Antichità Italiane*, t. iii. p. 126. Dissert. 50. Sismondi, t. ii. p. 189.

and that implacable vindictiveness, which, at least in former ages, distinguished the private manners of Italy, deformed her national character, which can only be the aggregate of individual passions. For revenge she threw away the pearl of great price, and sacrificed even the recollection of that liberty, which had stalked like a majestic spirit among the ruins of Milan.* It passed away, that high disdain of absolute power, that steadiness and self-devotion, which raised the half-civilized Lombards of the twelfth century to the level of those ancient republics, from whose history our first notions of freedom and virtue are derived. The victim by turns of selfish and sanguinary factions, of petty tyrants, and of foreign invaders, Italy has fallen like a star from its place in heaven; she has seen her harvests trodden down by the horses of the stranger, and the blood of her children wasted in quarrels not their own; *Conquering or conquered*, in the indignant language of her poet, *still alike a slave*;† a long retribution for the tyranny of Rome.

Frederic did not attempt to molest the cities of Lombardy in the enjoyment of those privileges conceded by the treaty of Constance. His ambition was diverted to a new scheme for aggrandizing the house of Swabia, by the marriage of his eldest son Henry with Constance, the aunt and heiress of William II., king of Sicily. That kingdom, which the first monarch, Roger, had elevated to a high pitch of renown and power, fell into decay through the misconduct of his son William, surnamed the Bad, and did not recover much of its lustre under the second William, though styled the Good. His death without issue was apparently no remote event, and Constance was the sole legitimate survivor of the royal family. It is a curious circumstance, that no hereditary kingdom appears absolutely to have excluded females from its throne, except that which, from its

CHAP.
III.
PART I.
ITALY.

Affairs of
Sicily.

* Anzi girar la libertà mirai,
E baciâr lieta ogni ruina, e dire,
Ruine sì, ma servitù non mai.

Gaetana Passerini (ossia piuttosto
Giovan Battista Pastorini) in

Mathias, Componimenti Lirici.—
vol. iii. p. 331.

† Per servir sempre, o vincitrice o vinta.

Filicaja.

CHAP. magnitude, was of all the most secure from falling into the condition
 III. of a province. The Sicilians felt too late the defect of their consti-
 PART I. tution, which permitted an independent people to be transferred, as
 ITALY. the dowry of a woman, to a foreign prince, by whose ministers they
 might justly expect to be insulted and oppressed. Henry, whose
 marriage with Constance took place in 1186, and who succeeded in
 her right to the throne of Sicily three years afterwards, was exasper-
 ated by a courageous, but unsuccessful effort of the Norman barons to
 preserve the crown for an illegitimate branch of the royal family; and
 his reign is disgraced by a series of atrocious cruelties. The power
 of the house of Swabia was now at its zenith on each side of the Alps;
 Henry received the Imperial crown, the year after his father's death
 in the third crusade, and even prevailed upon the princes of Ger-
 many to elect his infant son Frederic as his successor. But his own
 premature decease clouded the prospects of his family: Constance
 survived him but a year; and a child of four years old was left with
 the inheritance of a kingdom, which his father's severity had ren-
 dered disaffected, and which the leaders of German mercenaries in
 his service desolated and disputed.

Innocent
 III.

During the minority of Frederic II., from 1198 to 1216, the papal
 chair was filled by Innocent III.; a name second only, and hardly
 second, to that of Gregory VII. Young, noble and intrepid, he
 united with the accustomed spirit of ecclesiastical usurpation which
 no one had ever raised to so high a pitch, the more worldly ambition
 of consolidating a separate principality for the Holy See in the centre
 of Italy. The real or spurious donations of Constantine, Pepin,
 Charlemagne, and Louis, had given rise to a perpetual claim, on the
 part of the popes, to very extensive dominions; but little of this had
 been realized, and in Rome itself, they were thwarted by the prefect,
 an officer who swore fidelity to the emperor, and by the insubordi-
 nate spirit of the people. In the very neighbourhood, the small
 cities owned no subjection to the capital, and were probably as
 much self-governed, as those of Lombardy. One is transported
 back to the earliest times of the republic, in reading of the desperate

wars between Rome and Tibur or Tusculum; neither of which was subjugated till the latter part of the twelfth century. At a further distance were the duchy of Spoleto, the march of Ancona, and what had been the exarchate of Ravenna, to all of which the popes had more or less grounded pretensions. Early in the last mentioned age, the famous countess Matilda, to whose zealous protection Gregory VII. had been eminently indebted during his long dispute with the emperor, granted the reversion of all her possessions to the Holy See, first in the life-time of Gregory, and again under the pontificate of Paschal III. These were very extensive, and held by different titles. Of her vast imperial fiefs, Mantua, Modena, and Tuscany, she certainly could not dispose. The duchy of Spoleto and march of Ancona were supposed to rest upon a different footing. I confess myself not distinctly to comprehend the nature of this part of her succession. These had been formerly among the great fiefs of the kingdom of Italy. But if I understand it rightly, they had tacitly ceased to be subject to the emperors, some years before they were seized by Godfrey of Lorraine, father-in-law and step-father of Matilda. To his son, her husband, she succeeded in the possession of those countries. They are commonly considered as her alodial or patrimonial property; yet it is not easy to see, how, being herself a subject of the empire, she could transfer even her alodial estates from its sovereignty. Nor on the other hand, can it, apparently, be maintained, that she was lawful sovereign of countries, which had not long since been imperial fiefs, and the suzerainty over which had never been renounced. The original title of the Holy See, therefore, does not seem incontestable, even as to this part of Matilda's donation. But I state with hesitation a difficulty, to which the authors I have consulted do not advert.* It is certain, how-

CHAP.
III.
PART I.
ITALY.

Bequest of
the countess
Matilda.

* It is almost hopeless to look for explicit information upon the rights and pretensions of the Roman see in Italian writers, even of the eighteenth century. Muratori, the most learned, and upon the whole the fairest of

them all, moves cautiously over this ground; except when the claims of Rome happen to clash with those of the house of Este. But I have not been able to satisfy myself by the perusal of some dry and tedious dissertations

CHAP. ever, that the emperors kept possession of the whole during the
 III. twelfth century ; and treated both Spoleto and Ancona as parts of
 PART I. the empire, notwithstanding continual remonstrances from the Ro-
 ITALY. man pontiffs. Frederic Barbarossa, at the negociations of Venice
 in 1177, promised to restore the patrimony of Matilda in fifteen
 years ; but at the close of that period, Henry VI. was not disposed
 to execute this arrangement, and granted the county in fief to some
 of his German followers. Upon his death, the circumstances were
 favourable to Innocent III. The infant king of Sicily had been
 intrusted by Constance to his guardianship. A double election of
 Philip, brother of Henry VI., and of Otho, duke of Brunswic, en-
 gaged the princes of Germany, who had entirely overlooked the
 claims of young Frederic, in a doubtful civil war. Neither party
 was in a condition to enter Italy ; and the imperial dignity was
 vacant for several years, till, the death of Philip removing one com-
 petitor, Otho IV., whom the pope had constantly favoured, was
 crowned emperor. During this interval, the Italians had no su-
 perior ; and Innocent availed himself of it to maintain the preten-
 sions of the see. These he backed by the production of rather a
 questionable document, the will of Henry VI., said to have been
 found among the baggage of Marquard, one of the German soldiers,
 who had been invested with fiefs by the late emperor. The
 cities of what we now call the ecclesiastical state had in the twelfth
 century their own municipal government like those of Lombardy ;
 but they were far less able to assert a complete independence. They
 gladly, therefore, put themselves under the protection of the Holy
 See, which held out some prospect of securing them from Mar-
 quard, and other rapacious partizans, without disturbing their in-
 ternal regulations. Thus the duchy of Spoleto and march of An-
 cona submitted to Innocent III. ; but he was not strong enough to
 keep constant possession of such extensive territories, and some

Ecclesiasti-
 cal state re-
 duced by
 Innocent
 III.

in St. Marc, (Abrégé Chronologique de
 l'Hist. de l'Italie, t. iv.) who, with learning
 scarcely inferior to that of Muratori, pos-

sessed more opportunity and inclination to
 speak out.

years afterwards adopted the prudent course of granting Ancona in fief to the Marquis of Este. He did not, as may be supposed, neglect his authority at home; the prefect of Rome was now compelled to swear allegiance to the pope, which put an end to the regular imperial supremacy over that city; and the privileges of the citizens were abridged. This is the proper æra of that temporal sovereignty, which the bishops of Rome possess over their own city, though still prevented by various causes, for nearly three centuries, from becoming unquestioned and unlimited.

The policy of Rome was now more clearly defined than ever. In order to preserve what she had thus suddenly gained rather by opportunity than strength, it was her interest to enfeeble the imperial power, and consequently to maintain the freedom of the Italian republics. Tuscany had hitherto been ruled by a marquis of the emperor's appointment, though her cities were flourishing, and, within themselves, independent. In imitation of the Lombard confederacy, and impelled by Innocent III. they now (with the exception of Pisa, which was always strongly attached to the empire) formed a similar league for the preservation of their rights. In this league the influence of the pope was far more strongly manifested than in that of Lombardy. Although the latter had been in alliance with Alexander III., and was formed during the height of his dispute with Frederic, this ecclesiastical quarrel mingled so little in their struggle for liberty, that no allusion to it is found in the act of their confederacy. But the Tuscan union was expressly established "for the honour and aggrandizement of the apostolic see." The members bound themselves to defend the possessions and rights of the church; and not to acknowledge any king or emperor, without the approbation of the supreme pontiff.* The Tuscans accordingly were more thoroughly attached to the church party, than the Lombards, whose principle was animosity towards the house of Swabia. Hence,

CHAP.
III.
PART I.
ITALY.

League of
Tuscany.

* Quod possessiones et jura sacrosanctæ ecclesiæ bonâ fide defenderent; et quod nullum in regem aut imperatorem reciperent, nisi quem Romanus pontifex approbaret. Muratori, Dissert. 48. (Latin, t. iv. p. 320; Italian, t. iii. p. 112.)

CHAP. when Innocent III. some time after, supported Frederic II. against
 III. the emperor Otho IV. the Milanese and their allies were ranged on
 PART I. the imperial side ; but the Tuscans continued to adhere to the pope.

ITALY.
 Factions of
 Guelfs and
 Ghibelins,

In the wars of Frederic Barbarossa against Milan and her allies, we have seen the cities of Lombardy divided, and a considerable number of them firmly attached to the imperial interests. It does not appear, I believe, from history, though it is by no means improbable, that the citizens were at so early a time divided among themselves, as to their line of public policy, and that the adherence of a particular city to the emperor, or to the Lombard league, was only, as proved afterwards the case, that one faction or another acquired an ascendancy in its councils. But jealousies long existing between the different classes, and only suspended by the national struggle which terminated at Constance, gave rise to new modifications of interests, and new relations towards the empire. About the year 1200, or perhaps a little later, the two leading parties which divided the cities of Lombardy, and whose mutual animosity, having no general subject of contention, required the association of a name to direct as well as invigorate its prejudices, became distinguished by the celebrated appellations of Guelfs and Ghibelins ; the former adhering to the papal side, the latter to that of the emperor. These names were derived from Germany, and had been the rallying word of faction for more than half a century in that country, before they were transported to a more favourable soil. The Guelfs took their name from a very illustrious family, several of whom had successively been dukes of Bavaria in the tenth and eleventh centuries. The heiress of the last of these intermarried with a younger son of the house of Este, a noble family settled near Padua, and possessed of great estates on each bank of the lower Po. They gave birth to a second line of Guelfs, from whom the royal house of Brunswic is descended. The name of Ghibelin is derived from a village in Franconia, whence Conrad the Salic came, the progenitor, through females, of the Swabian emperors. At the election of Lothaire in 1125, the Swabian family were disappointed of what they considered almost an heredi-

tary possession ; and at this time an hostility appears to have commenced between them and the house of Guelf, who were nearly related to Lothaire. Henry the Proud and his son Henry the Lion, representatives of the latter family, were frequently persecuted by the Swabian emperors ; but their fortunes belong to the history of Germany.* Meanwhile the elder branch, though not reserved for such glorious destinies as the Guelfs, continued to flourish in Italy ; the marquises of Este were by far the most powerful nobles in eastern Lombardy, and about the end of the twelfth century, began to be considered as heads of the church party in their neighbourhood. They were frequently chosen to the office of podestà, or chief magistrate, by the cities of Romagna ; and, in 1208, the people of Ferrara set the fatal example of sacrificing their freedom for tranquillity, by electing Azzo VII. marquis of Este as their lord or sovereign.†

Otho IV. was son of Henry the Lion, and consequently head of the Guelfs. On his obtaining the imperial crown, the prejudices of Italian factions were diverted out of their usual channel. He was soon engaged in a quarrel with the pope, whose hostility to the empire was certain, into whatever hands it might fall. In Milan, however, and generally in the cities which had belonged to the Lombard league against Frederic I., hatred of the house of Swabia prevailed more than jealousy of the imperial prerogatives ; they adhered to names rather than to principles, and supported a Guelf emperor even against the pope. Terms of this description, having no definite relation to principles which it might be troublesome to learn and defend, are always acceptable to mankind, and have the peculiar advantage of precluding altogether that spirit of compromise and accommodation, by which it is sometimes endeavoured to obstruct their tendency to hate and injure each other. From this time, every city, and almost every citizen, gloried in one of these

* The German origin of these celebrated factions is clearly proved by a passage in Otho of Frisingen, who lived half a century before we find the denominations trans-

ferred to Italy. Struvius, *Corpus Hist. German.* p. 378. and Muratori, A.D. 1152.

† Sismondi, t. ii. p. 329.

CHAP.
III.
PART I.
ITALY.

barbarous denominations. In several cities the imperial party predominated through hatred of their neighbours, who espoused that of the church. Thus the inveterate feuds between Pisa and Florence, Modena and Bologna, Cremona and Milan, threw them into opposite factions. But there was in every one of these, a strong party against that which prevailed, and consequently a Guelf city frequently became Ghibelin, or conversely, according to the fluctuations of the time.*

Frederic II. The change to which we have adverted in the politics of the Guelf party lasted only during the reign of Otho IV. When the heir of the house of Swabia grew up to manhood, Innocent, who, though his guardian, had taken little care of his interests, as long as he flattered himself with the hope of finding a Guelf emperor obedient, placed the young Frederic at the head of an opposition, composed of cities always attached to his family, and of such as implicitly followed the see of Rome. He met with considerable success both in Italy and Germany, and, after the death of Otho, received the imperial crown. But he had no longer to expect any assistance from the pope who conferred it. Innocent was dead, and Honorius III., his successor, could not behold without apprehension the vast power of Frederic, supported in Lombardy by a faction which balanced that

* For the Guelf and Ghibelin factions, besides the historians, the 51st dissertation of Muratori should be read. There is some degree of inaccuracy in his language, where he speaks of these distractions expiring at the beginning of the fifteenth century. *Quel secolo, è vero, abbondò anch' esso di molte guerre, ma nulla si operò sotto nome o pretesto delle fazioni suddette. Solamente ritennero esse piede in alcune private famiglie. Antichità Italiane, t. iii. p. 148.* But certainly the names of Guelf and Ghibelin, as party distinctions, may be traced all through the fifteenth century. The former faction shewed itself distinctly, in the insurrection of the cities subject to Milan, upon the death of Gian Galeazzo Visconti in 1404. It appeared again in the attempt of the Milanese

to re-establish their republic in 1447. Sismondi, t. ix. p. 334. So in 1477, Ludovico Sforza made use of Ghibelin prejudices to exclude the regent Bonne of Savoy as a Guelf. Sismondi, t. xi. p. 79. In the ecclesiastical state, the same distinctions appear to have been preserved still later. Stefano Infessura, in 1487, speaks familiarly of them. *Script. Rer. Ital. t. iii. p. 1221.* And even in the conquest of Milan by Louis XII. in 1500, the Guelfs of that city are represented as attached to the French party, while the Ghibelins abetted Ludovico Sforza and Maximilian. Guicciardini, p. 399. Other passages in the same historian shew these factions to have been alive in various parts of Italy.

of the church, and menacing the ecclesiastical territories on the other side, by the possession of Naples and Sicily. This kingdom, feudatary to Rome, and long her firmest ally, was now, by a fatal connexion which she had not been able to prevent, thrown into the scale of her most dangerous enemy. Hence the temporal dominion which Innocent III. had taken so much pains to establish, became a very precarious possession, exposed on each side to the attacks of a power, that had legitimate pretensions to almost every province composing it. The life of Frederic II. was wasted in an unceasing contention with the church, and with his Italian subjects, whom she excited to rebellions against him. Without inveighing, like the popish writers, against this prince, certainly an encourager of letters, and endowed with many eminent qualities, we may lay to his charge a good deal of dissimulation: I will not add ambition, because I am not aware of any period in the reign of Frederic, when he was not obliged to act on his defence against the aggression of others. But if he had been a model of virtues, such men as Honorius III. Gregory IX. and Innocent IV., the popes with whom he had successively to contend, would not have given him respite, while he remained master of Naples, as well as the empire.*

It was the custom of every pope to urge princes into a crusade, which the condition of Palestine rendered indispensable, or, more properly, desperate. But this great piece of supererogatory devotion had never yet been raised into an absolute duty of their station; nor had even private persons been ever required to take up the cross by compulsion. Honorius III., however, exacted a vow from

* The rancour of bigotted Catholics against Frederic has hardly subsided at the present day. A very moderate commendation of him in Tiraboschi, vol. iv. t. 7. was not suffered to pass uncontradicted by the Roman editor. And though Muratori shews quite enough prejudice against that emperor's character, a fierce Roman bigot, whose animadversions are printed in the 17th volume of his annals, (8vo. edition) flies into paroxysms of fury at every syllable that looks like mo-

deration. It is well known, that, although the public policy of Rome has long displayed the pacific temper of weakness, the thermometer of ecclesiastical sentiment in that city stands very nearly as high, as in the thirteenth century. Giannone, who suffered for his boldness, has drawn Frederic II. very favourably, perhaps too favourably, in the 16th and 17th books of the *Istoria Civile di Napoli*.

CHAP. Frederic, before he conferred upon him the imperial crown, that
 III. he would undertake a crusade for the deliverance of Jerusalem.
 PART I. Frederic submitted to this engagement, which perhaps he never
 ITALY. designed to keep, and certainly endeavoured afterwards to evade. Though he became by marriage nominal king of Jerusalem,* his excellent understanding was not captivated with so barren a prospect, and at length his delays in the performance of his vow provoked Gregory IX. to issue against him a sentence of excommunication. Such a thunderbolt was not to be lightly regarded; and Frederic sailed, the next year, for Palestine. But having disdained to solicit absolution for what he considered as no crime, the court of Rome was excited to still fiercer indignation against this profanation of a crusade by an excommunicated sovereign. Upon his arrival in Palestine, he received intelligence that the papal troops had broken into the kingdom of Naples. No one could rationally have blamed Frederic, if he had quitted the Holy Land as he found it; but he made a treaty with the Saracens, which, though by no means so disadvantageous, as under all the circumstances might have been expected, served as a pretext for new calumnies against him in Europe. The charge of irreligion, eagerly and successfully propagated, he repelled by persecuting edicts against heresy, that do no great honour to his memory, and availed him little at the time. Over his Neapolitan dominions he exercised a rigorous government, rendered perhaps necessary by the levity and insubordination characteristic of the inhabitants, but which tended, through the artful

* The second wife of Frederic was Iolanta, or Violanta, daughter of John, count of Brienne, by Maria, eldest daughter and heiress of Isabella, wife of Conrad, marquis of Montferrat. This Isabella was the youngest daughter of Almaric or Amaury, king of Jerusalem, and by the deaths of her brother Baldwin IV. her eldest sister Sibilla, wife of Guy de Lusignan, and that sister's child Baldwin V. succeeded to a claim upon Jerusalem, which, since the victories of Saladin, was not very profitable. It is said that the kings of Naples deduce their title to that

sounding inheritance from this marriage of Frederic, (Giannone, l. xvi. c. 2.) but the extinction of Frederic's posterity must have, strictly speaking, put an end to any right derived from him; and Giannone himself indicates a better title by the cession of Maria, a princess of Antioch, and legitimate heiress of Jerusalem, to Charles of Anjou in 1272. How far indeed this may have been regularly transmitted to the present king of Naples, I do not know, and am sure that it is not worth while to inquire.

representations of Honorius and Gregory, to alarm and alienate the Italian republics.

A new generation had risen up in Lombardy since the peace of Constance, and the prerogatives reserved by that treaty to the empire were so seldom called into action, that few cities were disposed to recollect their existence. They denominated themselves Guelfs or Ghibelins, according to habit, and out of their mutual opposition, but without much reference to the empire. Those however of the former party, and especially Milan, retained their antipathy to the house of Swabia. Though Frederic II. was entitled, as far as established usage can create a right, to the sovereignty of Italy, the Milanese would never acknowledge him, nor permit his coronation at Monza, according to ancient ceremony, with the iron crown of the Lombard kings. The pope fomented, to the utmost of his power, this disaffected spirit, and encouraged the Lombard cities to renew their former league. This, although conformable to a provision in the treaty of Constance, was manifestly hostile to Frederic, and may be considered as the commencement of a second contest between the republican cities of Lombardy and the empire. But there was a striking difference between this and the former confederacy against Frederic Barbarossa. In the league of 1167, almost every city, forgetting all smaller animosities in the great cause of defending the national privileges, contributed its share of exertion to sustain that perilous conflict; and this transient unanimity in a people so distracted by internal faction as the Lombards is the surest witness to the justice of their undertaking. Sixty years afterwards, their war against the second Frederic had less of provocation and less of public spirit. It was in fact a party struggle of Guelf and Ghibelin cities, to which the names of the church and the empire gave more of dignity and consistence.

The republics of Italy in the thirteenth century were so numerous and independent, and their revolutions so frequent, that it is a difficult matter to avoid confusion in following their history. It will give more arrangement to our ideas, and at the same time illustrate

CHAP.
III.

PART I.

ITALY.

His wars
with the
Lombards.

Arrange-
ment of
Lombard
cities.

CHAP. the changes that took place in these little states, if we consider them
 III. as divided into four clusters or constellations, not indeed uncon-
 PART I. nected one with another, yet each having its own centre of motion,
 ITALY. and its own boundaries. The first of these we may suppose formed
 of the cities in central Lombardy, between the Sessia and the
 Adige, the Alps and the Ligurian mountains; it comprehends
 Milan, Cremona, Pavia, Brescia, Bergamo, Parma, Piacenza,
 Mantua, Lodi, Alessandria, and several others less distinguished.
 These were the original seats of Italian liberty, the great movers in
 the wars of the elder Frederic. Milan was at the head of this
 cluster of cities, and her influence gave an ascendancy to the Guelf
 party; she had, since the treaty of Constance, rendered Lodi and
 Pavia almost her subjects, and was in strict union with Brescia and
 Piacenza. Parma, however, and Cremona, were unshaken defen-
 ders of the empire. In the second class we may place the cities of
 the March of Verona, between the Adige and the frontiers of
 Germany. Of these there were but four worth mentioning; Verona,
 Vicenza, Padua, and Treviso. The citizens in all the four were
 inclined to the Guelf interests; but a powerful body of rural
 nobility, who had never been compelled, like those upon the upper
 Po, to quit their fortresses in the hilly country, or reside within the
 walls, attached themselves to the opposite denomination.* Some of
 them obtained very great authority in the civil feuds of these four
 republics; and especially two brothers, Eccelin and Alberic da
 Romano, of a rich and distinguished family, known for its devotion
 to the empire. By extraordinary vigour and decision of character,
 by dissimulation and breach of oaths, by the intimidating effects of
 almost unparalleled cruelty, Eccelin da Romano became after some
 years the absolute master of three cities, Padua, Verona, and
 Vicenza; and the Guelf party, in consequence, was entirely sub-
 verted beyond the Adige, during the continuance of his tyranny.†

* Sismondi, t. ii. p. 222.

† The cruelties of Eccelin excited uni-
 versal horror in an age, when inhumanity to-

wards enemies was as common as fear and
 revenge could make it. It was an usual
 trick of beggars, all over Italy, to pretend

Another cluster was composed of the cities in Romagna; Bologna, Imola, Faenza, Ferrara, and several others. Of these Bologna was far the most powerful, and, as no city was more steadily for the interests of the church, the Guelfs usually predominated in this class; to which also the influence of the house of Este not a little contributed. Modena, though not geographically within the limits of this division, may be classed along with it, from her constant wars with Bologna. A fourth class will comprehend the whole of Tuscany, separated almost entirely from the politics of Lombardy and Romagna. Florence headed the Guelf cities in this province, Pisa the Ghibelin. The Tuscan union was formed, as has been said above, by Innocent III., and was strongly inclined to the popes; but gradually the Ghibelin party acquired its share of influence; and the cities of Siena, Arezzo, and Lucca shifted their policy, according to external circumstances, or the fluctuations of their internal factions. The petty cities in the region of Spoleto and Ancona hardly perhaps deserve the name of republics; and Genoa does not readily fall into any of our four classes, unless her wars with Pisa may be thought to connect her with Tuscany.*

After several years of transient hostility and precarious truce, the Guelf cities of Lombardy engaged in a regular and protracted war with Frederic II. or more properly, with their Ghibelin adversaries. Few events of this contest deserve particular notice. Neither party

that they had been deprived of their eyes or limbs by the Veronese tyrant. There is hardly an instance in European history of so sanguinary a government subsisting for more than twenty years. The crimes of Eccelin are remarkably well authenticated by the testimony of several contemporary writers, who enter into great details. Most of these are found in the seventh volume of *Scriptores Rerum Italicarum*. Sismondi, t. iii. p. 33. 111. 203. is more full than any of the moderns.

* I have taken no notice of Piedmont in this division. The history of that country is far less elucidated by ancient or modern writers than that of other parts of Italy. It

was at this time divided between the counts of Savoy and marquises of Montferrat. But Asti, Chieri, and Turin, especially the two former, appear to have had a republican form of government. They were however not absolutely independent. The only Piedmontese city that can properly be considered as a separate state, in the thirteenth century, was Vercelli; and even there the bishop seems to have possessed a sort of temporal sovereignty. Denina, author of the *Rivoluzioni d'Italia*, first printed in 1769, lived to publish in his old age a history of western Italy, or Piedmont, from which I have gleaned a few facts. *Istoria dell'Italia Occidentale*; Torino, 1809. 6 vols. 8vo.

CHAP. ever obtained such decisive advantages as had alternately belonged
III. to Frederic Barbarossa and the Lombard confederacy, during the
PART I. war of the preceding century. A defeat of the Milanese by the
ITALY. emperor, at Corte Nuova, in 1237, was balanced by his unsuccessful
siege of Brescia the next year. The Pisans assisted Frederic to gain
a great naval victory over the Genoese fleet, in 1241; but he was
obliged to rise from the blockade of Parma, which had left the
standard of Ghibelinism in 1248. Ultimately, however, the strength
of the house of Swabia was exhausted by so tedious a struggle; the
Ghibelins of Italy had their vicissitudes of success; but their
country, and even themselves, lost more and more of the ancient
connexion with Germany.

In this resistance to Frederic II., the Lombards were much
indebted to the constant support of Gregory IX., and his successor
Innocent IV.; and the Guelf, or the church party, were used as
synonymous terms. These pontiffs bore an unquenchable hatred to
the house of Swabia. No concessions mitigated their animosity; on
reconciliation was sincere. Whatever faults may be imputed to
Frederic, it is impossible for any one, not blindly devoted to the
court of Rome, to deny, that he was iniquitously proscribed by her
unprincipled ambition. His real crime was the inheritance of his
ancestors, and the name of Swabia. In 1239, he was excommu-
nicated by Gregory IX. To this he was tolerably accustomed by
former experience; but the sentence was attended by an absolution
of his subjects from their allegiance, and a formal deposition.
These sentences were not very effective upon men of vigorous minds,
or upon those whose passions were engaged in their cause; but they
influenced both those who feared the threatenings of the clergy, and
those who wavered already as to their line of political conduct. In
the fluctuating state of Lombardy, the excommunication of Frederic
undermined his interest even in cities, like Parma, that had been
friendly, and seemed to identify the cause of his enemies with that
of religion; a prejudice, artfully fomented by means of calumnies
propagated against himself, and which the conduct of such leading

Ghibelins as Eccelin, who lived in an open defiance of God and man, did not contribute to lessen. In 1240, Gregory proceeded to publish a crusade against Frederic, as if he had been an open enemy to religion; which he revenged by putting to death all the prisoners he made who wore the cross. There was one thing wanting to make the expulsion of the emperor from the Christian commonwealth more complete. Gregory IX. accordingly projected, and Innocent IV. carried into effect, the convocation of a general council. This was held at Lyons, an imperial city, but over which Frederic could no longer retain his supremacy. In this assembly, where one hundred and forty prelates appeared, the question, whether Frederic ought to be deposed, was solemnly discussed; he submitted to defend himself by his advocates; and the pope in the presence, though without formally collecting the suffrages of the council, pronounced a sentence, by which Frederic's excommunication was renewed, the empire and all his kingdoms taken away, and his subjects absolved from their fidelity. This is the most pompous act of usurpation in all the records of the church of Rome; and the tacit approbation of a general council seemed to incorporate the pretended right of deposing kings, which might have passed as a mad vaunt of Gregory VII. and his successors, with the established faith of Christendom.

CHAP.
III.
PART I.
ITALY.

Council of
Lyons.
1245

Upon the death of Frederic II. in 1250, he left to his son Conrad a contest to maintain for every part of his inheritance, as well as for the imperial crown. But the vigour of the house of Swabia was gone; Conrad was reduced to fight for the kingdom of Naples, the only succession which he could hope to secure, against the troops of Innocent IV., who still pursued his family with implacable hatred, and claimed that kingdom as forfeited to its feudal superior, the Holy See. After Conrad's premature death, which happened in 1254, the throne was filled by his illegitimate brother Manfred, who retained it by his bravery and address, in despite of the popes, till they were compelled to call in the assistance of a more powerful arm.

Conrad IV.

The death of Conrad brings to a termination that period in

CHAP. III, PART I. ITALY. Italian history which we have described as nearly co-extensive with the greatness of the house of Swabia. It is perhaps upon the whole the most honourable to Italy; that, in which she displayed most of national energy and patriotism. A Florentine or Venetian may dwell with pleasure upon later times; but a Lombard will cast back his eye across the desert of centuries, till it reposes on the field of Legnano. Great changes followed in the foreign and internal policy, in the moral and military character of Italy. But before we descend to the next period, it will be necessary to remark some material circumstances in that which has just passed under our review.

Causes of
the success
of Lom-
bardy.

The successful resistance of the Lombard cities to such princes as both the Frederics must astonish a reader, who brings to the story of these middle ages notions derived from modern times. But when we consider not only the ineffectual controul which could be exerted over a feudal army, bound only to a short term of service, and reluctantly kept in the field at its own cost, but the peculiar distrust and disaffection with which many German princes regarded the house of Swabia, less reason will appear for surprize. Nor did the kingdom of Naples, almost always in agitation, yield any material aid to the second Frederic. The main cause, however, of that triumph which attended Lombardy was the intrinsic energy of a free government. From the eleventh century, when the cities became virtually republican, they put out those vigorous shoots which are the growth of freedom alone. Their domestic feuds, their mutual wars, the fierce assaults of their national enemies, checked not their strength, their wealth, or their population; but rather as the limbs are nerved by labour and hardship, the republics of Italy grew in vigour and courage, through the conflicts they sustained. If we but remember what savage licence prevailed during the ages that preceded their rise, the rapine of public robbers, or of feudal nobles little differing from robbers, the contempt of industrious arts, the inadequacy of penal laws, and the impossibility of carrying them into effect, we shall form some notion of the change which was

wrought in the condition of Italy by the growth of its cities. In comparison with the blessings of industry protected, injustice controuled, emulation awakened, the disorders which ruffled their surface appear slight and momentary. I speak only of this first stage of their independence, and chiefly of the twelfth century, before those civil dissensions had reached their height, by which the glory and prosperity of Lombardy were soon to be subverted.

We have few authentic testimonies as to the domestic improvement of the free Italian cities, while they still deserved the name. But we may perceive by history, that their power and population, according to their extent of territory, were almost incredible. In Galvaneus Flamma, a Milanese writer, we find a curious statistical account of that city in 1288, which though of a date about thirty years after its liberties had been overthrown by usurpation, must be considered as implying a high degree of previous advancement, even if we make allowance, as probably we should, for some exaggeration. The inhabitants are reckoned at 200,000; the private houses 13,000; the nobility alone dwelt in sixty streets: 8000 gentlemen, or heavy cavalry (*milites*) might be mustered from the city and its district, and 240,000 men capable of arms; a force sufficient, the writer observes, to crush all the Saracens. There were in Milan six hundred notaries, two hundred physicians, eighty schoolmasters, and fifty transcribers of manuscripts. In the district were one hundred and fifty castles with adjoining villages. Such was the state of Milan, Flamma concludes, in 1288; it is not for me to say, whether it has gained or lost ground since that time.* At this period, the territory

* Muratori, *Script. Rerum Italic.* t. xi. This expression of Flamma may seem to intimate, that Milan had declined in his time, which was about 1340. Yet as she had been continually advancing in power, and had not yet experienced any tyrannical government, I cannot imagine this to have been the case; and the same Flamma, who is a great flatterer of the Visconti, and has dedicated a particular work to the praises of Azzo, asserts therein,

that he had greatly improved the beauty and convenience of the city; though Brescia, Cremona, and other places had declined. Azarius too, a writer of the same age, makes a similar representation. *Script. Rer. Ital.* t. xvi. p. 314 and 317. Of Luchino Visconti he says: *Statum Mediolani reintegravit in tantum, quod non civitas, sed provincia videbatur.*

CHAP. of Milan was not perhaps more extensive than the county of Surrey ;
 III. it was bounded, at a little distance, on almost every side, by Lodi,
 PART I. or Pavia, or Bergamo, or Como. It is possible, however, that Flamma
 ITALY. may have meant to include some of these as dependencies of Milan, though not strictly united with it. How flourishing must the state of cultivation have been in such a country, which not only drew no supplies from any foreign land, but exported part of her own produce ! It was in the best age of their liberties, immediately after the battle of Legnano, that the Milanese commenced the great canal which conducts the waters of the Tesino to their capital, a work very extraordinary for that time. During the same period, the cities gave proofs of internal prosperity that in many instances have descended to our own observation, in the solidity and magnificence of their architecture. Ecclesiastical structures were perhaps more splendid in France and England ; but neither country could pretend to match the palaces and public buildings, the streets flagged with stone, the bridges of the same material, or the commodious private houses of Italy.*

The courage of these cities was wrought sometimes to a tone of insolent defiance, through the security inspired by their means of defence. From the time of the Romans, to that when the use of gunpowder came to prevail, little change was made, or perhaps could be made, in that part of military science which relates to the attack and defence of fortified places. We find precisely the same engines of offence ; the cumbrous towers, from which arrows were shot at the besieged, the machines from which stones were discharged, the battering-rams which assailed the walls, and the basket-work covering (the vinea or testudo of the ancients, and the gattus or chat-chateil of the middle ages) under which those who pushed the battering engine were protected from the enemy. On the other hand, a city was fortified with a strong wall of brick or marble, with towers

* Sismondi, t. iv. p. 176. Tiraboschi, t. iv. p. 426. See also the observations of Denina on the population and agriculture of Italy, l. xiv. c. 9. 10. chiefly indeed applicable to a period rather later than that of her free republics.

raised upon it at intervals, and a deep moat in front. Sometimes the ante-mural or barbican was added; a rampart of less height, which impeded the approach of the hostile engines. The gates were guarded with portcullises; an invention, which, as well as the barbican, was borrowed from the Saracens.* With such advantages for defence, a numerous and intrepid body of burghers might not unreasonably stand at bay against a powerful army; and as the consequences of capture were most terrible, while resistance was seldom hopeless, we cannot wonder at the desperate bravery of so many besieged towns. Indeed it seldom happened that one of considerable size was taken, except by famine or treachery. Tortona did not submit to Frederic Barbarossa, till the besiegers had corrupted with sulphur the only fountain that supplied the citizens; nor Crema, till her walls were overtopped by the battering engines. Ancona held out a noble example of sustaining the pressure of extreme famine. Brescia tried all the resources of a skilful engineer against the second Frederic; and swerved not from her steadiness, when that prince, imitating an atrocious precedent of his grandfather at the siege of Crema, exposed his prisoners upon his battering engines to the stones that were hurled by their fellow-citizens upon the walls.†

Of the government which existed in the republics of Italy during the twelfth and thirteenth centuries, no definite sketch can be traced. The chroniclers of those times are few and jejune; and, as is usual with contemporaries, rather intimate than describe the civil polity of their respective countries. It would indeed be a weary task, if it were even possible, to delineate the constitutions of thirty or forty little states which were in perpetual fluctuation. The magistrates elected in almost all of them, when they first began to shake off the jurisdiction of their count or bishop, were styled consuls; a word very expressive to an Italian ear, since, in the darkest ages, tradition must have preserved some acquaintance with the republican govern-

Their internal government

* Muratori, *Antiquit. Ital. Dissert.* 26.

† See these sieges in the second and third volumes of Sismondi. That of Ancona, t. ii.

p. 145—206. is told with remarkable elegance, and several interesting circumstances.

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III.
PART I.
ITALY.

ment of Rome.* The consuls were always annual ; and their office comprehended the command of the national militia in war, as well as the administration of justice, and preservation of public order ; but their number was various ; two, four, six, or even twelve. In their legislative and deliberative councils, the Lombards still copied the Roman constitution, or perhaps fell naturally into the form most calculated to unite sound discretion with the exercise of popular sovereignty. A council of trust and secrecy (*della credenza*) was composed of a small number of persons, who took the management of public affairs, and may be called the ministers of the state. But the decision upon matters of general importance, treaties of alliance or declarations of war, the choice of consuls or ambassadors, belonged to the general council. This appears not to have been uniformly constituted in every city ; and, according to its composition, the government was more or less democratical. An ultimate sovereignty, however, was reserved to the mass of the people ; and a parliament or general assembly was held to deliberate on any change in the form of constitution.†

About the latter end of the twelfth century, a new and singular species of magistracy was introduced into the Lombard cities. During the tyranny of Frederic I. he had appointed officers of his own, called *podestàs*, instead of the elective consuls. It is remarkable that this memorial of despotic power should not have excited insuperable alarm and disgust in the free republics. But, on the contrary, they almost universally, after the peace of Constance, revived an office, which had been abrogated when they first rose in rebellion against Frederic. From experience, as we must presume, of the partiality which their domestic factions carried into the administration of justice, it became a general practice to elect, by the

* Landulf the younger, whose history of Milan extends from 1094 to 1133, calls himself *publicorum officiorum particeps et consulum epistolarum dictator*. *Script. Rer. Ital.* t. v. p. 486. This is, I believe, the earliest

mention of those magistrates. Muratori, *Annali d'Italia*, A. D. 1107.

† Muratori, *Dissert.* 46. and 52. Sismondi, t. i. p. 385.

name of podestà, a citizen of some neighbouring state, as their general, their criminal judge, and preserver of the peace. The last duty was frequently arduous, and required a vigorous as well as an upright magistrate. Offences against the laws and security of the commonwealth were during the middle ages as often, perhaps more often, committed by the rich and powerful, than by the inferior class of society. Rude and licentious manners, family feuds and private revenge, or the mere insolence of strength, rendered the execution of criminal justice, practically and in every day's experience, what it is now in theory, a necessary protection to the poor against oppression. The sentence of a magistrate against a powerful offender was not pronounced without danger of tumult; it was seldom executed without force. A convicted criminal was not, as at present, the stricken deer of society, whose disgrace his kindred shrink from participating, and whose memory they strive to forget. Imputing his sentence to iniquity, or glorying in an act, which the laws of his fellow-citizens, but not their sentiments, condemned, he stood upon his defence amidst a circle of friends. The law was to be enforced not against an individual, but a family; not against a family, but a faction; not perhaps against a local faction, but the whole Guelf or Ghibelin name, which might become interested in the quarrel. The podestà was to arm the republic against her refractory citizen; his house was to be besieged and razed to the ground, his defenders to be quelled by violence; and thus the people, become familiar with outrage and homicide under the command of their magistrates, were more disposed to repeat such scenes at the instigation of their passions.*

The podestà was sometimes chosen in a general assembly, sometimes by a select number of citizens. His office was annual, though prolonged in peculiar emergencies. He was, invariably, a man of noble family, even in those cities which excluded their own nobility

* Sismondi, t. iii. p. 258. from whom the substance of these observations is borrowed. They may be copiously illustrated by Villani's history of Florence, and Stella's annals of Genoa.

CHAP. from any share in the government. He received a fixed salary, and
 III. was compelled to remain in the city, after the expiration of his office,
 PART I. for the purpose of answering such charges as might be adduced
 ~~~~~ against his conduct. He could neither marry a native of the city,  
 ITALY. nor have any relation resident within the district, nor even, so great  
 was their jealousy, eat or drink in the house of any citizen. The  
 authority of these foreign magistrates was not by any means alike  
 in all cities. In some he seems to have superseded the consuls, and  
 commanded the armies in war. In others, as Milan and Florence,  
 his authority was merely judicial. We find, in some of the old annals,  
 the years headed by the names of the podestàs, as by those of the  
 consuls in the history of Rome.\*

and dissen-  
 sions.

The effects of the evil spirit of discord, that had so fatally breathed  
 upon the republics of Lombardy, were by no means confined to  
 national interests, or to the grand distinction of Guelf and Ghibelin.  
 Dissensions glowed in the heart of every city, and as the danger of  
 foreign war became distant, these grew more fierce and unappeasable.  
 The feudal system had been established upon the principle of terri-  
 torial aristocracy; it maintained the authority, it encouraged the  
 pride of rank. Hence, when the rural nobility were compelled to  
 take up their residence in cities, they preserved the ascendancy of  
 birth and riches. From the natural respect which is shewn to these  
 advantages, all offices of trust and command were shared amongst  
 them; it is not material whether this were by positive right, or con-  
 tinual usage. A limited aristocracy of this description, where the  
 inferior citizens possess the right of selecting their magistrates by free  
 suffrage from a numerous body of nobles, is not among the worst  
 forms of government, and affords no contemptible security against  
 oppression and anarchy. This regimen appears to have prevailed in  
 most of the Lombard cities during the eleventh and twelfth centuries;  
 though, in so great a deficiency of authentic materials, it would be too  
 peremptory to assert this as an unequivocal truth. There is one very

\* Muratori, Dissert. 46.



early instance, in the year 1041, of a civil war at Milan between the capitanei, or vassals of the empire, and the plebeian burgesses, which was appeased by the mediation of Henry III. This is ascribed to the ill treatment which the latter experienced; as was usual enough in all parts of Europe, but which was endured with inevitable submission every where else. In this civil war, which lasted three years, the nobility were obliged to leave Milan, and carry on the contest in the adjacent plains; and one of their class, by name Lanzon, whether moved by ambition, or by virtuous indignation against tyranny, put himself at the head of the people.\*

From this time we scarcely find any mention of dissensions among the two orders, till after the peace of Constance; a proof, however defective the contemporary annals may be, that such disturbances had neither been frequent nor serious. A schism between the nobles and people is noticed to have occurred at Faenza in 1185. A serious civil war of some duration broke out between them at Brescia in 1200. From this time mutual jealousies interrupted the domestic tranquillity of other cities, but it is about 1220 that they appear to have taken a decided aspect of civil war; within a few years of that epoch, the question of aristocratical or popular command was tried by arms in Milan, Piacenza, Modena, Cremona, and Bologna.†

It would be vain to enter upon the merits of these feuds, which the meagre historians of the time are seldom much disposed to elucidate, and which they saw with their own prejudices. A writer of the present age would shew little philosophy, if he were to heat his passions by the reflection, as it were, of those forgotten animosities, and estimate, like a partial contemporary, the failings of one or another faction. We have no need of positive testimony to acquaint us with the general tenor of their history. We know that a nobility is always insolent, that a populace is always intemperate; and may safely pre-

\* Landulfus, Hist. Mediolan. in Script. Rerum Ital. t. iv. p. 86. Muratori, Dissert. 52. Annali d'Italia, A. D. 1041. St. Marc, t. iii. p. 94.

† Sismondi, t. ii. p. 444. Muratori, Annali d'Italia, A. D. 1185, &c.



CHAP. III. PART I. ITALY. sume, that the former began, as the latter ended, by injustice and abuse of power. At one time the aristocracy, not content with seeing the annual magistrates selected from their body, would endeavour by usurpation to exclude the bulk of the citizens from suffrage. At another, the merchants, grown proud by riches, and confident of their strength, would aim at obtaining the honours of the state, which had been reserved to the nobility. This is the inevitable consequence of commercial wealth, and indeed of freedom and social order, which are the parents of wealth. There is in the progress of civilization a term at which exclusive privileges must be relaxed, or the possessors must perish along with them. In one or two cities, a temporary compromise was made through the intervention of the pope, whereby offices of public trust, from the highest to the lowest, were divided, in equal proportions or otherwise, between the nobles and the people. This also is no bad expedient, and proved singularly efficacious in appeasing the dissensions of ancient Rome. There is, however, a natural preponderance in the popular scale, which, in a fair trial, invariably gains on that of the less numerous class. The artizans, who composed the bulk of the population, were arranged in companies according to their occupations. Sometimes, as at Milan, they formed separate associations, with rules for their internal government.\* These clubs, called at Milan la Motta and la Credenza, obtained a degree of weight not at all surprizing to those who consider the spirit of mutual attachment which belongs to such fraternities; and we shall see a more striking instance of this hereafter in the republic of Florence. To so formidable and organized a democracy, the nobles opposed their numerous families, the generous spirit that belongs to high birth, the influence of wealth and established name. The members of each distinguished family appear to have lived in the same street; their houses were fortified with square massive towers of commanding height, and wore the semblance of castles within the walls of a city. Brancaleon, the famous senator

\* Muratori, Dissert. 52. Sismondi, t. iii. p. 262.



of Rome, destroyed one hundred and forty of these domestic entrenchments, which were constantly serving the purpose of civil broils and outrage. Expelled, as frequently happened, from the city, it was in the power of the nobles to avail themselves of their superiority in the use of cavalry, and to lay waste the district, till weariness of an unprofitable contention reduced the citizens to terms of compromise. But, when all these resources were ineffectual, they were tempted or forced to sacrifice the public liberty to their own welfare, and lent their aid to a foreign master or a domestic usurper.

In all these scenes of turbulence, whether the contest was between the nobles and people, or the Guelf and Ghibelin factions, no mercy was shewn by the conquerors. The vanquished lost their homes and fortunes, and retiring to other cities of their own party, waited for the opportunity of revenge. In a popular tumult, the houses of the beaten side were frequently levelled to the ground; not perhaps from a sort of senseless fury, which Muratori inveighs against, but on account of the injury which these fortified houses inflicted upon the lower citizens. The most deadly hatred is that which men exasperated by proscription and forfeiture bear to their country; nor have we need to ask any other cause for the calamities of Italy, than the bitterness with which an unsuccessful faction was thus pursued into banishment. When the Ghibelins were returning to Florence, after a defeat given to the prevailing party in 1260, it was proposed among them to demolish the city itself which had cast them out; and, but for the persuasion of one man, Farinata degl' Uberti, their revenge would have thus extinguished all patriotism.\* It is to this that we must ascribe their proneness to call in assistance from every side, and to invite any servitude, for the sake of retaliating upon their adversaries. The simple love of public liberty is in general, I fear, too abstract a passion to glow warmly in the human breast; and though often invigorated as well as determined by personal animosi-

\* G. Villani, l. vi. c. 82. Sismondi. I cannot forgive Dante for placing this patriot, *trà l'anime più nere*, in one of the worst regions of his *Inferno*. The conversation of the poet with Farinata, cant. 10. is very fine, and illustrative of Florentine history.



CHAP. ties and predilections, is as frequently extinguished by the same  
 III. cause.

PART I.

ITALY.

Independently of the two leading differences which embattled the citizens of an Italian state, their form of government and their relation to the empire, there were others more contemptible, though not less mischievous. In every city the quarrels of private families became the foundation of general schism, sedition and proscription. Sometimes these blended themselves with the grand distinctions of Guelf and Ghibelin; sometimes they were more nakedly conspicuous. This may be illustrated by one or two prominent examples. Imilda de' Lambertazzi, a noble young lady at Bologna, was surprised by her brothers in a secret interview with Boniface Gieremei, whose family had long been separated by the most inveterate enmity from her own. She had just time to escape; while the Lambertazzi dispatched her lover with their poisoned daggers. On her return, she found his body still warm, and a faint hope suggested the remedy of sucking the venom from his wounds. But it only communicated itself to her own veins; and they were found by her attendants, stretched lifeless by each other's side. So cruel an outrage wrought the Gieremei to madness; they formed alliances with some neighbouring republics; the Lambertazzi took the same measures; and after a fight in the streets of Bologna, of forty days duration, the latter were driven out of the city, with all the Ghibelins, their political associates. Twelve thousand citizens were condemned to banishment; their houses razed, and their estates confiscated.\* Florence was at rest, till, in 1215, the assassination of an individual produced a mortal feud between the families Buondelmonti and Uberti, in which all the city took a part. An outrage committed at Pistoja, in 1300, split the inhabitants into the parties of Bianchi and Neri; and these spreading to Florence, created one of the most virulent divisions which annoyed that republic. In one of the changes which attended this little ramification of faction, Florence expelled

\* Sismondi, t. iii. p. 442. This story may suggest that of Romeo and Juliet, itself founded upon an Italian novel, and not an unnatural picture of manners.



a young citizen who had borne offices of magistracy, and espoused the cause of the Bianchi. Dante Alighieri retired to the courts of some Ghibelin princes, where his sublime and inventive mind, in the gloom of exile, completed that original combination of vast and extravagant conceptions with keen political satire, which has given immortality to his name, and even lustre to the petty contests of his time.\*

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PART I.  
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In the earlier stages of the Lombard republics, their differences, as well mutual as domestic, had been frequently appeased by the mediation of the emperors; and the loss of this salutary influence may be considered as no slight evil attached to that absolute emancipation which Italy attained in the thirteenth century. The popes sometimes endeavoured to interpose an authority, which, though not quite so direct, was held in greater veneration; and, if their own tempers had been always pure from the selfish and vindictive passions of those whom they influenced, might have produced more general and permanent good. But they considered the Ghibelins as their own peculiar enemies, and the triumph of the opposite faction as the church's best security. Gregory X. and Nicolas III., whether from benevolent motives, or because their jealousy of Charles of Anjou, while at the head of the Guelfs, suggested the revival of a Ghibelin party as a counterpoise to his power, distinguished their pontificate by enforcing measures of reconciliation in all Italian cities; but their successors returned to the ancient policy and prejudices of Rome.

The singular history of an individual far less elevated in station than popes or emperors, Fra Giovanni di Vicenza, belongs to these times, and to this subject. This Dominican friar began his career at Bologna in 1233, preaching the cessation of war and forgiveness of injuries. He repaired from thence to Padua to Verona, and the neighbouring cities. At his command men laid down their instruments of war, and embraced their enemies. With that susceptibility of transient impulse natural to popular governments, several

Giovanni di  
Vicenza.

\* Dino Compagni, in *Scr. Rer. Ital.* t. ix. Villani, *Ist. Fiorent.* l. viii. Dante, *passim.*



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republics implored him to reform their laws and to settle their differences. A general meeting was summoned in the plain of Paquara, upon the banks of the Adige. The Lombards poured themselves forth from Romagna and the cities of the March ; Guelfs and Ghibelins, nobles and burghers, free citizens and tenantry of feudal lords, marshalled around their carroccios, caught from the lips of the preacher the illusive promise of universal peace. They submitted to agreements dictated by Fra Giovanni, which contain little else than a mutual amnesty ; whether it were that their quarrels had been really without object, or that he had dexterously avoided to determine the real points of contention. But power and reputation suddenly acquired are transitory. Not satisfied with being the legislator and arbiter of Italian cities, he aimed at becoming their master ; and abused the enthusiasm of Vicenza and Verona, to obtain a grant of absolute sovereignty. Changed from an apostle to an usurper, the fate of Fra Giovanni might be predicted ; and he speedily gave place to those, who, though they made a worse use of their power, had, in the eyes of mankind, more natural pretensions to possess it.\*

\* Tiraboschi, Storia della Letteratura, t. iv. p. 214. (a very well-written account.) Sismondi, t. ii. p. 484.



## PART II.

*State of Italy after the Extinction of the House of Swabia—Conquest of Naples by Charles of Anjou—The Lombard Republics become severally subject to Princes or Usurpers—The Visconti of Milan—their Aggrandizement—Decline of the Imperial Authority over Italy—Internal State of Rome—Rienzi—Florence—her Forms of Government historically traced to the end of the fourteenth Century—Conquest of Pisa—Pisa—its Commerce, naval Wars with Genoa, and Decay—Genoa—her Contentions with Venice—War of Chioza—Government of Genoa—Venice—her Origin and Prosperity—Venetian Government—its Vices—Territorial Conquests of Venice—Military System of Italy—Companies of Adventure—1. foreign; Guarnieri, Hawkwood—and 2. native; Braccio, Sforza—Improvements in Military Science—Arms, offensive and defensive—Invention of Gunpowder—Naples—First Line of Anjou—Joanna I.—Ladislaus—Joanna II.—Francis Sforza becomes Duke of Milan—Alfonzo king of Naples—State of Italy during the fifteenth Century—Florence—Rise of the Medici, and ruin of their Adversaries—Pretensions of Charles VIII. to Naples.*

FROM the death of Frederic II. in 1250, to the invasion of Charles VIII. in 1494, a long and undistinguished period occurs, which it is impossible to break into any natural divisions. It is an age, in many respects, highly brilliant; the age of poetry and letters, of art and of continual improvement. Italy displayed an intellectual superiority in this period over the Transalpine nations, which certainly had not appeared since the destruction of the Roman empire. But her political history presents a labyrinth of petty facts, so obscure and of so little influence as not to arrest the attention; so intricate and incapable of classification, as to leave only confusion in the memory. The general events that are worthy of notice, and give a character to this long period, are the establishment of small tyrannies upon the ruins of republican government in most of the cities, the gradual rise of three considerable states, Milan, Florence, and Venice, the naval and commercial rivalry between the last city and Genoa, the final acquisition by the popes of their present territorial sovereignty, and

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CHAP. the revolutions in the kingdom of Naples under the lines of Anjou  
 III. and afterwards of Aragon.

PART II.

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After the death of Frederic II. the distinctions of Guelf and Ghibelin became destitute of all rational meaning. The most odious crimes were constantly perpetrated, and the utmost miseries endured, for an echo and a shade, that mocked the deluded enthusiasts of faction. None of the Guelfs denied the nominal, but indefinite sovereignty of the empire; and beyond a name the Ghibelins themselves would have been little disposed to carry it. But the virulent hatreds attached to these words grew continually more implacable, till ages of ignominy and tyrannical government had extinguished every energetic passion in the bosoms of a degraded people.

- In the fall of the house of Swabia, Rome appeared to have consummated her triumph; and although the Ghibelin party was for a little time able to maintain itself, and even to gain ground in the north of Italy, yet two events that occurred not long afterwards, restored the ascendancy of their adversaries. The first of these was the fate of Eccelin da Romano, whose rapid successes in Lombardy appeared to threaten the establishment of a tremendous despotism, and induced a temporary union of Guelf and Ghibelin states, by which he was overthrown. The next, and far more important, was the change of dynasty in Naples. This kingdom had been occupied, after the death of Conrad, by his illegitimate brother, Manfred, in the behalf, as he at first pretended, of young Conradin the heir, but in fact as his own acquisition. He was a prince of an active and firm mind, well fitted for his difficult post, to whom the Ghibelins looked up as their head, and as the representative of his father. It was a natural object with the popes, independently of their ill will towards a son of Frederic II., to see a sovereign on whom they could better rely placed upon so neighbouring a throne. Charles, count of Anjou, brother of St. Louis, was tempted by them to lead a crusade (for as such all wars for the interest of Rome were now considered) against the Neapolitan usurper. The chance of a battle decided the fate of Naples, and had a striking influence upon the history of

Affairs of  
Naples.

Charles of  
Anjou.



Europe for several centuries. Manfred was killed in the field ; but there remained the legitimate heir of the Frederics, a boy of seventeen years old, Conradin, son of Conrad, who rashly, as we say at least after the event, attempted to regain his inheritance. He fell into the hands of Charles ; and the voice of those rude ages, as well as of a more enlightened posterity, has united in branding with everlasting infamy the name of that prince, who did not hesitate to purchase the security of his own title by the public execution of an honourable competitor, or rather, a rightful claimant of the throne he had usurped. With Conradin the house of Swabia was extinguished ; but Constance the daughter of Manfred had transported *his* right to Sicily and Naples into the house of Aragon, by her marriage with Peter III.

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1268

This success of a monarch, selected by the Roman pontiffs as their particular champion, turned the tide of faction over all Italy. He expelled the Ghibelins from Florence, of which they had a few years before obtained a complete command by means of their memorable victory upon the river Arbia. After the fall of Conradin, that party was every where discouraged. Germany held out small hopes of support, even when the imperial throne, which had long been vacant, should be filled by one of her princes. The populace were, in almost every city, attached to the church, and to the name of Guelf ; the king of Naples employed arms, and the popes helped with excommunications, so that for the remainder of the thirteenth century, the name of Ghibelin was a term of proscription in the majority of Lombard and Tuscan republics. Charles was constituted by the pope vicar-general in Tuscany. This was a new pretension of the Roman pontiffs, to name the lieutenants of the empire during its vacancy, which indeed could not be completely filled up without their consent. It soon, however, became evident, that he aimed at the sovereignty of Italy. Some of the popes themselves, Gregory X. and Nicolas IV., grew jealous of their own creature. At the congress of Cremona, in 1269, it was proposed to confer upon Charles

Decline of  
the Ghibelin  
party.



CHAP. the seigniory of all the Guelf cities ; but the greater part were prudent enough to chuse him rather as a friend than a master.\*

III.  
PART II.

ITALY.  
The Lombard cities  
become subject to lords.

The cities of Lombardy, however, of either denomination, were no longer influenced by that generous disdain of one man's will, which is to republican governments what chastity is to women ; a conservative principle, never to be reasoned upon, or subjected to calculations of utility. By force, or stratagem, or free consent, almost all the Lombard republics had already fallen under the yoke of some leading citizen, who became the lord (Signore) or, in the Grecian sense, tyrant of his country. The first instance of a voluntary delegation of sovereignty was that, above mentioned, of Ferrara, which placed itself under the lord of Este. Eccelin made himself truly the tyrant of the cities beyond the Adige ; and such experience ought naturally to have inspired the Italians with more universal abhorrence of despotism. But every danger appeared trivial in the eyes of exasperated factions, when compared with the ascendancy of their adversaries. Weary of unceasing and useless contests, in which ruin fell with an alternate but equal hand upon either party, liberty withdrew from a people who disgraced her name ; and the tumultuous, the brave, the intractable Lombards became eager to submit themselves to a master, and patient under the heaviest oppression. Or, if tyranny sometimes overstepped the limits of forbearance, and a seditious rising expelled the reigning prince, it was only to produce a change of hands, and transfer the impotent people to a different, and perhaps a worse, despotism.† In many cities, not a conspiracy

\* Sismondi, t. iii. p. 417. Several however, including Milan, took an oath of fidelity to Charles the same year. *ibid.* In 1273, he was lord of Alessandria and Piacenza, and received tribute from Milan, Bologna and most Lombard cities. Muratori. It was evidently his intention to avail himself of the vacancy of the empire, and either to acquire that title himself, or at least to stand in the same relation as the emperors had done to the Italian states ; which, according to the usage of the twelfth and thirteenth centuries,

left them in possession of every thing that we call independence, with the reservation of a nominal allegiance.

† See an instance of the manner in which one tyrant was exchanged for another, in the fate of Passerino Bonaccorsi, lord of Mantua, in 1328. Luigi di Gonzaga surprized him, rode the city (*corse la città*) with a troop of horse, crying, *Viva il popolo, e muoja Messer Passerino e le sue gabelle!* killed Passerino upon the spot, put his son to death in cold blood, e poi si fece signore della terra. Vil-



was planned, not a sigh was breathed in favour of republican government, after once they had passed under the sway of a single person. The progress indeed was gradual, though sure, from limited to absolute, from temporary to hereditary power, from a just and conciliating rule, to extortion and cruelty. But before the middle of the fourteenth century, at the latest, all those cities which had spurned at the faintest mark of submission to the emperors, lost even the recollection of self-government, and were bequeathed, like an undoubted patrimony, among the children of their new lords. Such is the progress of usurpation; and such the vengeance that Heaven reserves for those who waste in licence and faction its first of social blessings, liberty.\*

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The city most distinguished in both wars against the house of Swabia, for an unconquerable attachment to republican institutions, was the first to sacrifice them in a few years after the death of Frederic II. Milan had for a considerable time been agitated by civil dissensions between the nobility and inferior citizens. These parties were pretty equally balanced, and their success was consequently alternate. Each had its own podestà, as a party-leader, distinct from the legitimate magistrate of the city. At the head of the nobility was their archbishop Fra Leon Perego; the people chose Martin della Torre, one of a noble family which had ambitiously sided with the democratic faction. In consequence of the crime of a nobleman, who had murdered one of his creditors, the two parties took up arms in 1257. A civil war of various success, and interrupted by several pacifications, which, in that unhappy temper,

The Torriani and Visconti at Milan.

lani, l. x. c. 99. observes, like a good republican, that God had fulfilled in this the words of his Gospel, (query, what Gospel?) I will slay my enemy by my enemy; abbattendo l'uno tiranno per l'altro.

\* See the observations of Sismondi, t. iv. p. 212. on the conduct of the Lombard signori, (I know not of any English word that characterizes them, except *tyrant* in its primitive sense,) during the first period of their dominion. They were generally chosen in

an assembly of the people, sometimes for a short term, prolonged in the same manner. The people was consulted upon several occasions. At Milan there was a council of 900 nobles, not permanent or representative, but selected and convened at the discretion of the government, throughout the reigns of the Visconti. Corio, p. 519. 583. Thus, as Sismondi remarks, they respected the sovereignty of the people, while they destroyed its liberty.



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could not be durable, was terminated in about two years by the entire discomfiture of the aristocracy, and by the election of Martin della Torre as chief and lord (*capitano e signore*) of the people. Though the Milanese did not probably intend to renounce the sovereignty resident in their general assemblies, yet they soon lost the republican spirit; five in succession of the family della Torre might be said to reign in Milan; each indeed by a formal election, but with an implied recognition of a sort of hereditary title. Twenty years afterwards, the Visconti, a family of opposite interests, supplanted the Torriani at Milan; and the rivalry between these great houses was not at an end till the final establishment of Matteo Visconti in 1313; but the people were not otherwise considered than as aiding by force the one or other party, and at most deciding between the pretensions of their masters.

Revival of  
the Ghibelin  
party.

The vigour and concert infused into the Guelf party by the successes of Charles of Anjou was not very durable. That prince was soon involved in a protracted and unfortunate quarrel with the kings of Aragon, to whose protection his revolted subjects in Sicily had recurred. On the other hand, several men of energetic character retrieved the Ghibelin interests in Lombardy, and even in the Tuscan cities. The Visconti were acknowledged heads of that faction. A family early established as lords of Verona, the della Scala, maintained the credit of the same denomination between the Adige and the Adriatic. Castruccio Castrucani, an adventurer of remarkable ability, rendered himself prince of Lucca, and drew over a formidable accession to the imperial side from the heart of the church-party in Tuscany, though his death restored the ancient order of things. The inferior tyrants were partly Guelf, partly Ghibelin, according to local revolutions; but upon the whole, the latter acquired a gradual ascendancy. Those indeed who cared for the independence of Italy, or for their own power, had far less to fear from the phantom of imperial prerogatives, long intermitted, and incapable of being enforced, than from the new race of foreign princes, whom the church had substituted for the house of Swabia. The Angevin

Kings of  
Naples aim  
at command  
of Italy.



kings of Naples were sovereigns of Provence, and from thence easily encroached upon Piedmont, and threatened the Milanese. Robert, the third of this line, almost openly aspired, like his grandfather Charles I., to a real sovereignty over Italy. His offers of assistance to Guelf cities in war were always coupled with a demand of the sovereignty. Many yielded to his ambition; and even Florence twice bestowed upon him a temporary dictatorship. In 1314, he was acknowledged lord of Lucca, Florence, Pavia, Alexandria, Bergamo, and the cities of Romagna. In 1318, the Guelfs of Genoa found no other resource against the Ghibelin emigrants who were under their walls, than to resign their liberties to the king of Naples for the term of ten years, which he procured to be renewed for six more. The Avignon popes, especially John XXII., out of blind hatred to the emperor Louis of Bavaria and the Visconti family, abetted all these measures of ambition. But they were rendered abortive by Robert's death, and the subsequent disturbances of his kingdom.

At the latter end of the thirteenth century, there were almost as many princes in the north of Italy, as there had been free cities in the preceding age. Their equality, and the frequent domestic revolutions which made their seat unsteady, kept them for a while from encroaching on each other. Gradually, however, they became less numerous; a quantity of obscure tyrants were swept away from the smaller cities, and the people, careless or hopeless of liberty, were glad to exchange the rule of despicable petty usurpers for that of more distinguished and powerful families. About the year 1350, the central parts of Lombardy had fallen under the dominion of the Visconti. Four other houses occupied the second rank; of Este at Ferrara and Modena; of Scala at Verona, which under Cane and Mastino della Scala had seemed likely to contest with the lords of Milan the supremacy over Lombardy; of Carrara at Padua, which later than any Lombard city had resigned her liberty; and of Gonzaga at Mantua, which, without ever obtaining any material extension of territory, continued, probably for that reason,

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State of  
Lombardy  
in the mid-  
dle of the  
fourteenth  
century.



CHAP. III. PART II. ITALY: Power of the Visconti. to reign undisturbed till the eighteenth century. But these united were hardly a match, as they sometimes experienced, for the Visconti. That family, the object of every league formed in Italy for more than fifty years, in constant hostility to the church, and well enured to interdicts and excommunications, producing no one man of military talents, but fertile of tyrants detested for their perfidiousness and cruelty, was nevertheless enabled, with almost uninterrupted success, to add city after city to the dominion of Milan, till it absorbed all the north of Italy. Under Gian Galeazzo, whose reign began in 1385, the viper (their armorial bearing) assumed indeed a menacing attitude;\* he overturned the great family of Scala, and annexed their extensive possessions to his own; no power intervened from Vercelli in Piedmont to Feltre and Belluno; while the free cities of Tuscany, Pisa, Siena, Perugia, and even Bologna, as if by a kind of witchcraft, voluntarily called in a dissembling tyrant as their master.

Powerful as the Visconti were in Italy, they were long in washing out the tinge of recent usurpation, which humbled them before the legitimate dynasties of Europe. At the siege of Genoa in 1318 Robert king of Naples rejected with contempt the challenge of Marco Visconti to decide their quarrel in single combat.† But the pride of sovereigns, like that of private men, is easily set aside for their interest. Galeazzo Visconti purchased with 100,000 florins a daughter of France for his son, which the French historians mention as a deplorable humiliation for their crown. A few years afterwards, Lionel duke of Clarence, second son of Edward III., certainly not an inferior match, espoused Galeazzo's daughter. Both these connexions were short-lived; but the union of Valentine, daughter of

\* Allusions to heraldry are very common in the Italian writers. All the historians of the fourteenth century habitually use the viper, il biscione, as a synonym for the power of Milan.

† Della qual cosa il Rè molto sdegno ne

prese. Villani, l. ix. c. 93. It was reckoned a mis-alliance, as Dante tells us, in the widow of Nino di Gallura, a nobleman at Pisa, though a sort of prince in Sardinia, to marry one of the Visconti. Purgatorio, Cant. 8.



Gian Galeazzo, with the duke of Orleans, in 1389, produced far more important consequences, and served to transmit a claim to her descendants Louis XII. and Francis I., from which the long calamities of Italy at the beginning of the sixteenth century were chiefly derived. Not long after this marriage, the Visconti were tacitly admitted among reigning princes, by the erection of Milan into a duchy, under letters patent of the emperor Wenceslaus.\*

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1395

The imperial authority over Italy was almost entirely suspended after the death of Frederic II. A long interregnum followed in Germany; and when the vacancy was supplied by Rodolph of Hapsburg, he was too prudent to dissipate his moderate resources, where the great house of Swabia had failed. About forty years afterwards, the emperor Henry of Luxemburg, a prince, like Rodolph, of small hereditary possessions, but active and discreet, availed himself of the ancient respect borne to the imperial name, and the mutual jealousies of the Italians, to recover for a very short time a remarkable influence. But, though professing neutrality, and desire of union between the Guelfs and Ghibelins, he could not succeed in removing the distrust of the former; his exigencies impelled him to large demands of money; and the Italians, when they counted his scanty German cavalry, perceived that obedience was altogether a matter of their own choice. Henry died, however, in time to save himself from any decisive reverse. His successors, Louis of Bavaria, and Charles IV., descended from the Alps with similar motives, but after some temporary good fortune, were obliged to return not without discredit. Yet the Italians never broke that almost invisible thread which connected them with Germany; the fallacious name of Roman emperor still challenged their allegiance, though conferred by seven Teutonic electors without their concurrence. Even Florence, the most independent and high-spirited of republics, was induced to make a treaty with Charles IV. in 1355, which, while it confirmed all her actual liberties, not a little, by that

Relations of  
the empire  
with Italy.

1272

Henry VII.

1309

\* Corio, p. 538.



CHAP. very confirmation, affected her sovereignty.\* This deference to the  
 III. supposed prerogatives of the empire, even while they were least  
 PART II. formidable, was partly owing to jealousy of French or Neapolitan  
 ITALY. interference, partly to the national hatred of the popes who had  
 seceded to Avignon, and in some degree to a misplaced respect for  
 antiquity, to which the revival of letters had given birth. The great  
 civilians, and the much greater poets of the fourteenth century,  
 taught Italy to consider her emperor as a sovereign in abeyance, to  
 whom her various principalities and republics were subordinate, and  
 during whose absence alone they had legitimate authority.

Cession of  
 Romagna to  
 the popes.

In one part, however, of that country, the empire had, soon after  
 the commencement of this period, spontaneously renounced its sove-  
 reignty. From the æra of Pepin's donation, confirmed and extended  
 by many subsequent charters, the Holy See had tolerably just pre-  
 tensions to the province entitled Romagna, or the exarchate of  
 Ravenna. But the popes, whose menaces were dreaded at the ex-  
 tremities of Europe, were still very weak as temporal princes. Even  
 Innocent III. had never been able to obtain possession of this part  
 of St. Peter's patrimony. The circumstances of Rodolph's accession  
 inspired Nicolas IV. with more confidence. That emperor granted  
 a confirmation of every thing included in the donations of Louis I.,

\* The republic of Florence was at this time in considerable peril from a coalition of the Tuscan cities against her, which rendered the protection of the emperor convenient. But it was very reluctantly, that she acquiesced in even a nominal submission to his authority. The Florentine envoys, in their first address, would only use the words, Santa Corona, or Serenissimo Principe; senza ricordarlo imperadore, o dimostrargli alcuna reverenza di suggezzione, domandando che il comune di Firenze volea, essendogli ubbidiente, le cotali e le cotali franchigie per mantenere il suo popolo nell' usata libertade. Matt. Villani, p. 274. (Script. Rer. Ital. t. xiv.) This style made Charles angry; and the city soon atoned for it by accepting his privilege. In this, it must

be owned, he assumes a decided tone of sovereignty. The gonfalonier and priors are declared to be his vicars. The deputies of the city did homage and swore obedience. Circumstances induced the principal citizens to make this submission, which they knew to be merely nominal. But the high-spirited people, not so indifferent about names, came into it very unwillingly. The treaty was seven times proposed, and as often rejected in the consiglio del popolo, before their feelings were subdued. Its publication was received with no marks of joy. The public buildings alone were illuminated; but a sad silence indicated the wounded pride of every private citizen. M. Villani, p. 286. 290. Sismondi, t. vi. p. 238.



Otho, and his other predecessors ; but was still reluctant or ashamed to renounce his imperial rights. Accordingly his charter is expressed to be granted without diminution of the empire ; (*sine demembratione imperii* ; ) and his chancellor received an oath of fidelity from the cities of Romagna. But the pope insisting firmly on his own claim, Rodolph discreetly avoided involving himself in a fatal quarrel, and, in 1278, absolutely released the imperial supremacy over all the dominions already granted to the Holy See.\*

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~  
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This is a leading epoch in the temporal monarchy of Rome. But she stood only in the place of the emperor ; and her ultimate sovereignty was compatible with the practical independence of the free cities, or of the usurpers who had risen up among them. Bologna, Faenza, Rimini, and Ravenna, with many other less considerable, took an oath indeed to the pope, but continued to regulate both their internal concerns and foreign relations at their own discretion. The first of these cities was far pre-eminent above the rest for population and renown, and, though not without several intermissions, preserved a republican character till the end of the fourteenth century. The rest were soon enslaved by petty tyrants, more obscure than those of Lombardy. It was not easy for the pontiffs of Avignon to reinstate themselves in a dominion which they seemed to have abandoned ; but they made several attempts to recover it, sometimes with spiritual arms, sometimes with the more efficacious aid of mercenary troops. The annals of this part of Italy are peculiarly uninteresting.

Rome itself was, throughout the middle ages, very little disposed to acquiesce in the government of her bishop. His rights were indefinite, and unconfirmed by positive law ; the emperor was long sovereign, the people always meant to be free. Besides the common causes of insubordination and anarchy among the Italians, which applied equally to the capital city, other sentiments more peculiar to Rome preserved a continual, though not uniform,

Internal  
state of  
Rome.

\* Muratori, ad ann. 1274, 1275. 1278. Sismondi, t. iii. p. 461.



CHAP. III. influence for many centuries. There still remained enough, in the wreck of that vast inheritance, to swell the bosoms of her citizens with a consciousness of their own dignity. They bore the venerable name, they contemplated the monuments of art and empire, and forgot, in the illusions of national pride, that the tutelar gods of the building were departed for ever. About the middle of the twelfth century, these recollections were heightened by the eloquence of Arnold of Brescia, a political heretic who preached against the temporal jurisdiction of the hierarchy. In a temporary intoxication of fancy, they were led to make a ridiculous shew of self-importance towards Frederic Barbarossa, when he came to receive the imperial crown; but the German sternly chided their ostentation, and chastised their resistance.\* With the popes they could deal more securely. Several of them were expelled from Rome during that age by the seditious citizens. Lucius II. died of hurts received in a tumult. The government was vested in fifty-six senators, annually chosen by the people, through the intervention of an electoral body, ten delegates from each of the thirteen districts of the city.† This constitution lasted not quite fifty years. In 1192, Rome imitated the prevailing fashion by the appointment of an annual foreign magistrate.‡ Except in name, the senator of Rome appears to have perfectly resembled the podestà of other cities. This magistrate superseded the representative senate who had proved by no means adequate to controul the most lawless aristocracy of Italy. I shall not repeat the story of Brancaleon's rigorous and inflexible justice, which a great historian has already drawn from obscurity. It illustrates not the annals of Rome alone, but the general state of Italian society, the nature of a podestà's duty, and the difficulties of its execution. The office of senator survives after more than six

\* The impertinent address of a Roman orator to Frederic, and his answer, are preserved in Otho of Frisingen, l. ii. c. 22. but so much at length, that we may suspect some exaggeration. Otho is rather rhetorical. They may be read in Gibbon, c. 69.

† Sismondi, t. ii. p. 36. Besides Sismondi and Muratori, I would refer for the history of Rome during the middle ages to the last chapters of Gibbon's *Decline and Fall*.

‡ Sismondi, t. ii. p. 308.



hundred years; a foreign magistrate still resides in the Capitol; but he no longer wields the iron flail of Brancalion, and his nomination proceeds of course from the supreme pontiff, not from the people. In the twelfth and thirteenth centuries, the senate, and the senator who succeeded them, exercised one distinguishing attribute of sovereignty, that of coining gold and silver money. Some of their coins still exist, with legends in a very republican tone.\* Doubtless the temporal authority of the popes varied according to their personal character. Innocent III. had much more than his predecessors for almost a century, or than some of his successors. He made the senator take an oath of fealty to him, which, though not very comprehensive, must have passed in those times as a recognition of his superiority.†

Though there was much less obedience to any legitimate power at Rome than any where else in Italy, even during the thirteenth century, yet after the secession of the popes to Avignon, their own city was left in a far worse condition than before. Disorders of every kind, tumult and robbery, prevailed in the streets. The Roman nobility were engaged in perpetual war with each other. Not content with their own fortified palaces, they turned the sacred monuments of antiquity into strong holds, and consummated the destruction of time and conquest. At no period has the city endured such irreparable injuries; nor was the downfall of the western empire so fatal to its capital, as the contemptible feuds of the Orsini and Colonna families. Whatever there was of government, whether administered by a legate from Avignon, or by the municipal authorities, had lost all hold on these powerful barons. In the midst of this degradation and wretchedness, an obscure man,

The Tribune  
Rienzi.  
1347

\* Gibbon, vol. xii. p. 289. Muratori, Antiquit. Ital. Dissert. 27. † Sismondi, p. 309.



CHAP. study of the best writers. After many harangues to the people,  
III. which the nobility, blinded by their self-confidence, did not attempt  
PART II. to repress, Rienzi suddenly excited an insurrection, and obtained  
ITALY. complete success. He was placed at the head of a new government, with the title of Tribune, and with almost unlimited power. The first effects of this revolution were wonderful. All the nobles submitted, though with great reluctance; the roads were cleared of robbers; tranquillity was restored at home; some severe examples of justice intimidated offenders; and the tribune was regarded by all the people as the destined restorer of Rome and Italy. Though the court of Avignon could not approve of such an usurpation, it temporized enough not directly to oppose it. Most of the Italian republics, and some of the princes, sent ambassadors, and seemed to recognize pretensions which were tolerably ostentatious. The king of Hungary and queen of Naples submitted their quarrel to the arbitration of Rienzi, who did not, however, undertake to decide upon it. But this sudden exaltation intoxicated his understanding, and exhibited failings entirely incompatible with his elevated condition. If Rienzi had lived in our own age, his talents, which were really great, would have found their proper orbit. For his character was one not unusual among literary politicians; a combination of knowledge, eloquence, and enthusiasm for ideal excellence, with vanity, inexperience of mankind, unsteadiness and physical timidity. As these latter qualities became conspicuous, they eclipsed his virtues and caused his benefits to be forgotten; he was compelled to abdicate his government, and retire into exile. After several years, some of which he passed in the prisons of Avignon, Rienzi was brought back to Rome, with the title of senator, and under the command of the legate. It was supposed that the Romans, who had returned to their habits of insubordination, would gladly submit to their favourite tribune. And this proved the case for a few months; but after that time they ceased altogether to respect a man, who so little respected himself in accepting a station



where he could no longer be free, and Rienzi was killed in a sedition.\*

Once more, not long after the death of Rienzi, the freedom of Rome seems to have revived in republican institutions, though with names less calculated to inspire peculiar recollections. Magistrates called bannerets, chosen from the thirteen districts of the city, with a militia of three thousand citizens at their command, were placed at the head of this commonwealth. The great object of this new organization was to intimidate the Roman nobility, whose outrages, in the total absence of government, had grown intolerable. Several of them were hanged the first year by order of the bannerets. The citizens, however, had no serious intention of throwing off their subjection to the popes. They provided for their own security, on account of the lamentable secession and neglect of those who claimed allegiance while they denied protection. But they were ready to acknowledge and welcome back their bishop as their sovereign. Even, without this, they surrendered their republican constitution in 1362, it does not appear for what reason, and permitted the legate of Innocent VI. to assume the government.† We find, however, the institution of bannerets revived, and in full authority, some years afterwards. But the internal history of Rome appears to be obscure, and I have not had opportunities of examining it minutely. Some degree of political freedom the city

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Subsequent  
affairs of  
Rome.

\* Sismondi, t. v. c. 37.; t. vi. p. 201. Gibbon, c. 70. De Sade, Vie de Pétrarque, t. ii. passim. Tiraboschi, t. vi. p. 339. It is difficult to resist the admiration, which all the romantic circumstances of Rienzi's history tend to excite, and to which Petrarch so blindly gave way. That great man's characteristic excellence was not good common sense. He had imbibed two notions, of which it is hard to say which was the more absurd; that Rome had a legitimate right to all her ancient authority over the rest of the world; and that she was likely to recover this authority in consequence of the revolution produced by Rienzi. Giovanni Villani, living at Florence, and a staunch republican,

formed a very different estimate, which weighs more than the enthusiastic panegyrics of Petrarch. La detta impresa del tribuno era un' opera fantastica, e di poco durare. l. xii. c. 90. An illustrious female writer has drawn with a single stroke the character of Rienzi, Crescentius, and Arnold of Brescia, the fond restorers of Roman liberty, *qui ont pris les souvenirs pour les espérances*. Corinne, t. i. p. 159. Could Tacitus have excelled this?

† Matt. Villani, p. 576. 604. 709. Sismondi, t. v. p. 92. He seems to have overlooked the former period of government by bannerets, and refers their institution to 1375.



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ITALY.

Cities of  
Tuscany.  
Florence.

probably enjoyed during the schism of the church; but it is not easy to discriminate the assertion of legitimate privileges, from the licentious tumults of the barons or populace. In 1435, the Romans formally took away the government from Eugenius IV. and elected seven signiors or chief magistrates, like the priors of Florence.\* But this revolution was not of long continuance. On the death of Eugenius, the citizens deliberated upon proposing a constitutional charter to the future pope. Stephen Porcaro, a man of good family, and inflamed by a strong spirit of liberty, was one of their principal instigators. But the people did not sufficiently partake of that spirit. No measures were taken upon this occasion; and Porcaro, whose ardent imagination disguised the hopelessness of his enterprize, tampering in a fresh conspiracy, was put to death under the pontificate of Nicolas V.†

The province of Tuscany continued longer than Lombardy under the government of an imperial lieutenant. It was not till about the middle of the twelfth century that the cities of Florence, Lucca, Pisa, Siena, Arezzo, Pistoja, and several less considerable, which might perhaps have already their own elected magistrates, became independent republics. Their history is, with the exception of Pisa, very scanty till the death of Frederic II. The earliest fact of any importance recorded of Florence, occurs in 1184, when it is said that Frederic Barbarossa took from her the dominion over the district or county, and restored it to the rural nobility, on account of her attachment to the church.‡ This I chiefly mention to illustrate the system pursued by the cities, of bringing the territorial proprietors in their neighbourhood under subjection. During the reign of Frederic II., Florence became, as far as she was able, an ally of the popes. There was indeed a strong Ghibelin party, comprehending many of the greatest families, which occasionally predominated through the assistance of the emperor. It seems,

\* Script. Rerum Italic. t. iii. pars 2. p. 1126.

† Id. p. 1131. 1134. Sismondi, t. x. p. 18.  
‡ Villani, l. v. c. 12.



however, to have existed chiefly among the nobility; the spirit of the people was thoroughly Guelf. After several revolutions, accompanied by alternate proscription and demolition of houses, the Guelf party, through the assistance of Charles of Anjou, obtained a final ascendancy in 1266; and after one or two unavailing schemes of accommodation, it was established as a fundamental law in the Florentine constitution, that no person of Ghibelin ancestry could be admitted to offices of public trust; which, in such a government, was in effect an exclusion from the privileges of citizenship.

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The changes of internal government and vicissitudes of success among factions were so frequent at Florence, for many years after this time, that she is compared by her great banished poet to a sick man, who, unable to rest, gives himself momentary ease, by continual change of posture in his bed.\* They did not become much less numerous after the age of Dante. Yet the revolutions of Florence should perhaps be considered as no more than a necessary price of her liberty. It was her boast and her happiness to have escaped, except for one short period, that odious rule of vile usurpers, under which so many other free cities had been crushed. A sketch of the constitution of so famous a republic ought not to be omitted in this place. Nothing else in the history of Italy after Frederic II. is so worthy of our attention.†

Govern-  
ment of  
Florence.

The basis of the Florentine polity was a division of the citizens exercising commerce, into their several companies or *arts*. These were at first twelve, seven called the greater arts, and five lesser; but the latter were gradually increased to fourteen. The seven greater arts were those of lawyers and notaries, of dealers in foreign cloth, called sometimes Calimala, of bankers or money-changers, of woollen drapers, of physicians and druggists, of dealers in silk,

\* E se ben ti ricordi, e vedi lume,  
Vedrai te somigliante a quella inferna,  
Che non può trovar posa in sù le piume,  
Ma con dar volta suo dolore scherma.  
Purgatorio, cant. vi.

† I have found considerable difficulties in this part of my task; no author with whom I am acquainted, giving a tolerable view of the Florentine government, except M. Sismondi, who is himself not always satisfactory.



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and of furriers. The inferior arts were those of retailers of cloth, butchers, smiths, shoemakers, and builders. This division, so far at least as regarded the greater arts, was as old as the beginning of the thirteenth century.\* But it was fully established, and rendered essential to the constitution, in 1266. By the provisions made in that year, each of the seven greater arts had a council of its own, a chief magistrate or consul who administered justice in civil causes to all members of his company, and a banneret (*gonfaloniere*) or military officer, to whose standard they repaired, when any attempt was made to disturb the peace of the city.

The administration of criminal justice belonged at Florence, as at other cities, to a foreign *podestà*; or rather to two foreign magistrates, the *podestà*, and the *capitano del popolo*, whose jurisdiction, so far as I can trace it, appears to have been concurrent.† In the first part of the thirteenth century, the authority of the *podestà* may have been more extensive than afterwards. These offices were preserved till the innovations of the Medici. The domestic magistracies underwent more changes. Instead of consuls, which had been the first denomination of the chief magistrates of Florence, a college of twelve or fourteen persons called *Anziani* or *Buonumini*, but varying in name as well as number according to revolutions of party, was established about the middle of the thirteenth century, to direct public affairs.‡ This order was entirely changed in 1282, and gave place to a new form of supreme magistracy, which lasted till the extinction of the republic. Six priors, elected every two months, from each of the six quarters of the city, and from each of the greater arts, except that of lawyers, constituted an executive magistracy. They lived, during their continuance in office, in a palace

\* Ammirato, ad ann. 1204 et 1235. Villani intimates, l. vii. c. 13. that the arts existed as commercial companies before 1266. Machiavelli and Sismondi express themselves rather inaccurately, as if they had been erected at that time, which indeed is the æra of their political importance.

† Matteo Villani, p. 194. G. Villani places the institution of the *podestà* in 1207; we find it however as early as 1184. Ammirato.

‡ G. Villani, l. vi. c. 39.



belonging to the city, and were maintained at the public cost. The actual priors, jointly with the chiefs and councils (usually called *la capitudine*) of the seven greater arts, and with certain adjuncts (*arroti*) named by themselves, elected by ballot their successors. Such was the practice for about forty years after this government was established. But an innovation, begun in 1324, and perfected four years afterwards, gave a peculiar character to the constitution of Florence. A lively and ambitious people, not merely jealous of their public sovereignty, but deeming its exercise a matter of personal enjoyment, aware at the same time, that the will of the whole body could neither be immediately expressed on all occasions, nor even through chosen representatives, without the risk of violence and partiality, fell upon the singular idea of admitting all citizens, not unworthy by their station or conduct, to offices of magistracy by rotation. Lists were separately made out by the priors, the twelve *buonumini*, the chiefs and councils of arts, the bannerets and other respectable persons, of all citizens, Guelfs by origin, turned of thirty years of age, and, in their judgement, worthy of public trust. The lists thus formed were then united, and those who had composed them meeting together; in number ninety-seven, proceeded to ballot upon every name. Whoever obtained sixty-eight *black balls*\* was placed upon the reformed list; and all the names it contained, being put on separate tickets into a bag or purse (*imborsati*) were drawn successively as the magistracies were renewed. As there were above fifty of these, none of which could be held for more than four months, several hundred citizens were called in rotation to bear their share in the government within two years. But at the expiration of every two years, the scrutiny was renewed, and fresh names were mingled with those which still continued undrawn;

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\* This is a little repugnant to the practice of our clubs, and indeed to the *cretâ an carbone notandi* of Horace. I once supposed it to have proceeded from the triumph of the Black faction in 1304, who stigma-

tized the Whites as Ghibelins; but I since met with the same custom of electing by black balls at another (I forget which) Tuscan city.



CHAP. so that accident might deprive a man for life of his portion of so-  
 III. vereignty.\*

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Four councils had been established by the constitution of 1266, for the decision of all propositions laid before them by the executive magistrates, whether of a legislative nature, or relating to public policy. These were now abrogated; and in their place were substituted one of 300 members, all plebeians, called *consiglio di popolo*, and one of 250, called *consiglio di commune*, into which the nobles might enter. These were changed, by the same rotation as the magistracies, every four months.† A parliament, or general assembly of the Florentine people, was rarely convoked; but the leading principle of a democratical republic, the ultimate sovereignty of the multitude, was not forgotten. This constitution of 1324 was fixed by the citizens at large in a parliament; and the same sanction was given to those temporary delegations of the signiory to a prince, which occasionally took place. What is technically called by their historians, *farsi popolo*, was the assembly of a parliament, or a resolution of all derivative powers into the immediate operation of the popular will.

The ancient government of this republic appears to have been chiefly in the hands of its nobility. These were very numerous, and possessed large estates in the district. But by the constitution of 1266, which was nearly coincident with the triumph of the Guelf faction, the essential powers of magistracy, as well as of legislation, were thrown into the scale of the commons. The colleges of arts, whose functions became so eminent, were altogether commercial. Many indeed of the nobles enrolled themselves in these companies, and were among the most conspicuous merchants of Florence. These were not excluded from the executive colleges of the priors, at its

\* Villani, l. ix. c. 27. l. x. c. 110. l. xi. c. 105. Sismondi, t. v. p. 174. This species of lottery, recommending itself by an apparent fairness, and incompatibility with undue influence, was speedily adopted in all the neighbouring republics, and has always

continued, according to Sismondi, in Lucca, and in those cities of the ecclesiastical state which preserved the privilege of chusing their municipal officers. p. 95.

† Id. *ibid.*



first institution in 1282. It was necessary, however, to belong to one or other of the greater arts in order to reach that magistracy. The majority, therefore, of the ancient families saw themselves pushed aside from the helm, which was entrusted to a class whom they naturally held in contempt.

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It does not appear that the nobility made any overt opposition to these democratical institutions. Confident in a force beyond the law, they cared less for what the law might provide against them. They still retained the proud spirit of personal independence, which had belonged to their ancestors in the fastnesses of the Apennines. Though the laws of Florence, and a change in Italian customs, had transplanted their residence to the city, it was in strong and lofty houses that they dwelt, among their kindred, and among the fellows of their rank. Notwithstanding the tenor of the constitution, Florence was, for some years after the establishment of priors, incapable of resisting the violence of her nobility. Her historians all attest the outrages and assassinations committed by them on the inferior people. It was in vain that justice was offered by the podestà and the capitano del popolo. Witnesses dared not to appear against a noble offender; or if, on a complaint, the officer of justice arrested the accused, his family made common cause to rescue their kinsman, and the populace rose in defence of the laws, till the city was a scene of tumult and bloodshed. I have already alluded to this insubordination of the higher classes as general in the Italian republics; but the Florentine writers, being fuller than the rest, are our best specific testimonies.\*

The dissensions between the patrician and plebeian orders ran very high, when Giano della Bella, a man of ancient lineage, but attached, without ambitious views, so far as appears, though not without passion, to the popular side, introduced a series of enactments exceedingly disadvantageous to the ancient aristocracy. The first of these was the appointment of an executive officer, the gon-

\* Villani, l. vii. c. 113. l. viii. c. 8. Ammirato, Storia Fiorentina, l. iv. in cominciamento.



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falconier of justice; whose duty it was to enforce the sentences of the podestà and capitano del popolo, in cases where the ordinary officers were insufficient. A thousand citizens, afterwards increased to four times that number, were bound to obey his commands. They were distributed into companies, the gonfaloniers or captains of which became a sort of corporation or college, and a constituent part of the government. This new militia seems to have superseded that of the companies of arts, which I have not observed to be mentioned at any later period. The gonfalonier of justice was part of the signiory along with the priors, of whom he was reckoned the president, and changed like them every two months. He was, in fact, the first magistrate of Florence.\* If Giano della Bella had trusted to the efficacy of this new security for justice, his fame would have been beyond reproach. But he followed it up by harsher provisions. The nobility were now made absolutely ineligible to the office of prior. For an offence committed by one of a noble family, his relations were declared responsible, in a penalty of 3000 pounds. And, to obviate the difficulty arising from the frequent intimidation of witnesses, it was provided, that common fame, attested by two credible persons, should be sufficient for the condemnation of a nobleman.† These are the famous ordinances of justice, which passed at Florence for the great charter of her democracy. They have been reprobated in later times as scandalously unjust, and I have little inclination to defend them. The last, especially, was a violation of those eternal principles, which forbid us, for any calculations of advantage, to risk the sacrifice of innocent blood. But it

\* It is to be regretted, that the accomplished biographer of Lorenzo de' Medici should have taken no pains to inform himself of the most ordinary particulars in the constitution of Florence. Among many other errors, he says, vol. ii. p. 51. 5th edit. that the gonfalonier of justice was subordinate to the delegated mechanics, (a bad expression) or priori dell' arti, whose number too he augments to ten. The proper style of the republic seems to run thus: I priori

dell' arti e gonfaloniere di giustizia, il popolo e 'l comune della città di Firenze. G. Villani, l. xii. c. 109.

† Villani, l. viii. c. 1. Ammirato, p. 188. edit. 1647. A magistrate, called l' esecutor della giustizia, was appointed with authority equal to that of the podestà, for the special purpose of watching over the observation of the ordinances of justice. Ammirato, p. 666.



is impossible not to perceive, that the same unjust severity has sometimes, under a like pretext of necessity, been applied to the weaker classes of the people, which they were in this instance able to exercise towards their natural superiors.

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The nobility were soon aware of the position in which they stood. For half a century their great object was to procure the relaxation of the ordinances of justice. But they had no success with an elated enemy. In three years time indeed, Giano della Bella, the author of these institutions, was driven into exile; a conspicuous, though by no means singular proof, of Florentine ingratitude.\* The wealth and physical strength of the nobles were however untouched; and their influence must always have been considerable. In the great feuds of the Bianchi and Neri, the ancient families were most distinguished. No man plays a greater part in the annals of Florence at the beginning of the fourteenth century, than Corso Donati, chief of the latter faction, who might pass as representative of the turbulent, intrepid, ambitious citizen-noble of an Italian republic.† But the laws gradually became more sure of obedience; the sort of proscription which attended the ancient nobles lowered their spirit; while a new aristocracy began to raise its head, the aristocracy of families who, after filling the highest magistracies for two or three generations, obtained an hereditary importance, which answered the purpose of more unequivocal nobility; just as in ancient Rome, plebeian families, by admission to curule offices, acquired the character and appellation of nobility, and were only distinguishable by their genealogy from the original patricians.‡ Florence had her plebeian nobles (*popolani grandi*), as well as Rome; the Peruzzi, the Ricci, the Albizi, the Medici, correspond to the Catos, the Pompeys, the Brutuses, and the Antonies. But at Rome

\* Villani, l. viii. c. 8.

† Dino Compagni. Villani.

‡ La nobiltà civile, se bene non ha baronaggi, è capace di grandissimi honori, perciocchè esercitando i supremi magistrati della sua patria, viene spesso a comandare

a capitani d'eserciti, e ella stessa per se ò in mare, ò in terra, molte volta i supremi carichi adopera. E tale è la Fiorentina nobiltà. *Ammirato delle Famiglie Fiorentine*. Firenze, 1615. p. 25.



CHAP. the two orders, after an equal partition of the highest offices, were  
 III. content to respect their mutual privileges; at Florence the com-  
 PART II. moners preserved a rigorous monopoly, and the distinction of high  
 ITALY. birth was, that it debarred men from political franchises and civil  
 justice.\*

This second aristocracy did not obtain much more of the popular affection than that which it superseded. Public outrage and violation of law became less frequent; but the new leaders of Florence are accused of continual mis-government at home and abroad, and sometimes of speculation. There was of course a strong antipathy between the leading commoners and the ancient nobles; both were disliked by the people. In order to keep the nobles under more controul, the governing party more than once introduced a new foreign magistrate, with the title of captain of defence (della guardia) whom they invested with an almost unbounded criminal jurisdiction.

1336 One Gabrielli of Agobbio was twice fetched for this purpose; and in  
 1340 each case he behaved in so tyrannical manner, as to occasion a tumult.† His office however was of short duration, and the title at least did not import a sovereign command. But very soon afterwards Florence had to experience one taste of a cup which her neighbours had drank off to the dregs, and to animate her magnanimous love of freedom by a knowledge of the calamities of tyranny.

A war with Pisa, unsuccessfully, if not unskillfully, conducted, gave rise to such dissatisfaction in the city, that the leading commoners had recourse to an appointment something like that of Gabrielli, and from similar motives. Walter de Brienne, duke of Athens, was descended from one of the French crusaders who had dismembered the Grecian empire in the preceding century; but his father, defeated in battle, had lost the principality along with his life, and the titular duke was an adventurer in the court of France. He

\* Quello, che all' altre città suole recare splendore, in Firenze era dannoso, o vera-

mente vano e inutile, says Ammirato of nobility. Storia Fiorentina, p. 161.

† Villani, l. xi. c. 39. and 117.



had been, however, slightly known at Florence on a former occasion. There was an uniform maxim among the Italian republics, that extraordinary powers should be conferred upon none but strangers. The duke of Athens was accordingly pitched upon for the military command, which was united with domestic jurisdiction. This appears to have been promoted by the governing party, in order to curb the nobility; but they were soon undeceived in their expectations. The first act of the duke of Athens was to bring four of the most eminent commoners to capital punishment for military offences. These sentences, whether unjust or otherwise, gave much pleasure to the nobles, who had so frequently been exposed to similar severity, and to the populace, who are naturally pleased with the humiliation of their superiors. Both of these were caressed by the duke, and both conspired, with blind passion, to second his ambitious views. It was proposed and carried in a full parliament, or assembly of the people, to bestow upon him the signiory for life. The real friends 1342 of their country, as well as the oligarchy, shuddered at this measure. Throughout all the vicissitudes of party, Florence had never yet lost sight of republican institutions. Not that she had never accommodated herself to temporary circumstances by naming a Signior. Charles of Anjou had been invested with that dignity for the term of ten years; Robert king of Naples for five; and his son the duke of Calabria was at his death Signior of Florence. These princes named the podestà, if not the priors; and were certainly pretty absolute in their executive powers, though bound by oath not to alter the statutes of the city.\* But their office had always been temporary. Like the dictatorship of Rome, it was a confessed, unavoidable evil; a suspension but not extinguishment of rights. Like that too, it was a dangerous precedent, through which crafty ambition and popular rashness might ultimately subvert the republic. If Walter de Brienne had possessed the subtle prudence of a Matteo Visconti, or a Cane della Scala, there appears no reason to suppose, that

\* Villani, l. ix. c. 55. 60. 135. 328.



CHAP. Florence would have escaped the fate of other cities; and her  
 III. history might have become as useless a record of perfidy and assas-  
 PART II. sination as that of Mantua or Verona.\*

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But, happily for Florence, the reign of tyranny was very short. The duke of Athens had neither judgement nor activity for so difficult a station. He launched out at once into excesses, which it would be desirable that arbitrary power should always commit at the outset. The taxes were considerably increased; their produce was dissipated. The honour of the state was sacrificed by an inglorious treaty with Pisa; her territory was diminished by some towns throwing off their dependence. Severe and multiplied punishments spread terror through the city. The noble families, who had on the duke's election destroyed the ordinances of justice, now found themselves exposed to the more partial caprice of a despot. He filled the magistracies with low creatures from the inferior artificers; a class which he continued to flatter.† Ten months passed in this manner, when three separate conspiracies, embracing most of the nobility and of the great commoners, were planned for the recovery of freedom. The duke was protected by a strong body of hired cavalry. Revolutions in an Italian city were generally effected by surprize. The streets were so narrow and so easily secured by barricades, that if a people had time to stand on its defence, no cavalry was of any avail. On the other hand, a body of lancers in plate-armour might dissipate any number of a disorderly populace. Accordingly, if a prince or usurper would get possession by surprize, he, as it was called, *rode the city*; that is, galloped with his cavalry along the streets, so as to prevent the people from collecting to erect barricades. This expression is very usual with historians of the fourteenth century.‡ The conspirators at Florence were too quick for the duke of Athens. The city was

\* Villani, l. xii. c. 1, 2, 3. corse la città di Pisa due volte. Sismondi,

† Id. c. 8.

t. v. p. 105.

‡ Villani, l. x. c. 81. Castruccio . . .



barricaded in every direction; and after a contest of some duration, he consented to abdicate his signiory.

Thus Florence recovered her liberty. Her constitutional laws now seemed to revive of themselves. But the nobility, who had taken a very active part in the recent liberation of their country, thought it hard to be still placed under the rigorous ordinances of justice. Many of the richer commoners acquiesced in an equitable partition of magistracies, which was established through the influence of the bishop. But the populace of Florence, with its characteristic forgetfulness of benefits, was tenacious of those proscriptive ordinances. The nobles too, elated by their success, began again to strike and injure the inferior citizens. A new civil war in the city-streets decided their quarrel; after a desperate resistance, many of the principal houses were pillaged and burned; and the perpetual exclusion of the nobility was confirmed by fresh laws. But the people, now sure of their triumph, relaxed a little upon this occasion the ordinances of justice; and to make some distinction in favour of merit or innocence, effaced certain families from the list of nobility. Five hundred and thirty persons were thus elevated, as we may call it, to the rank of commoners.\* As it was beyond the competence of the republic of Florence to change a man's ancestors, this nominal alteration left all the real advantages of birth as they were, and was undoubtedly an enhancement of dignity, though, in appearance, a very singular one. Conversely, several unpopular commoners were ennobled, in order to disfranchise them. Nothing was more usual, in subsequent times, than such an arbitrary change of rank, as a penalty or a benefit.† Those nobles who were rendered plebeian

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\* Villani, l. xii. c. 18—23. Sismondi says by a momentary oversight, cinq cent trente familles. t. v. p. 377. There were but thirty-seven noble families at Florence; as M. Sismondi himself informs us, t. iv. p. 66; though Villani reckons the number of individuals at 1500. Nobles, or *grandi*, as they are more strictly called, were such as had

been inscribed, or rather proscribed, as such in the ordinances of justice; at least I do not know what other definition there was.

† Messer Antonio di Balduccio degli Adimari, tutto che fosse de più grandi e nobili, per grazia era messo tra 'l popolo. Villani, l. xii. c. 108.



CHAP. by favour, were obliged to change their name and arms.\* The constitution now underwent some change. From six, the priors were increased to eight; and instead of being chosen from each of the greater arts, they were taken from the four quarters of the city, the lesser artizans, as I conceive, being admissible. The gonfaloniers of companies were reduced to sixteen. And these, along with the signiory, and the twelve buoniuomini, formed the college, where every proposition was discussed, before it could be offered to the councils for their legislative sanction. But it could only originate, strictly speaking, in the signiory, that is, the gonfalonier of justice, and eight priors, the rest of the college having merely the function of advice and assistance.†

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Several years elapsed, before any material disturbance arose at Florence. Her contemporary historian complains indeed, that mean and ignorant persons obtained the office of prior, and ascribes some errors in her external policy to this cause.‡ Besides the natural effects of the established rotation, a particular law, called the *divieto*, tended to throw the better families out of public office. By this law, two of the same name could not be drawn for any magistracy; which, as the ancient families were extremely numerous, rendered it difficult for their members to succeed; especially as a ticket once drawn was not replaced in the purse, so that an individual liable to the *divieto*, was excluded until the next biennial revolution.§ This created dissatisfaction among the leading families. They were likewise divided by a new faction, entirely founded, as far as appears, on personal animosity between two prominent houses, the Albizi and the Ricci. The city was, however, tranquil, when, in 1357, a spring was set in motion, which gave quite a different character to the domestic history of Florence.

\* Ammirato, p. 748. There were several exceptions to this rule in later times. The Pazzi were made popolani, plebeians, by favour of Cosmo de' Medici. Machiavelli.

† Nardi, Storia di Firenze, p. 7. edit. 1584. Villani, loc. cit.

‡ Matteo Villani in Script. Rer. Italic, t. xiv. p. 98. 244.

§ Sismondi, t. vi. p. 338.



At the time when the Guelfs, with the assistance of Charles of Anjou, acquired an exclusive domination in the republic, the estates of the Ghibelins were confiscated. One third of these confiscations was allotted to the state: another went to repair the losses of Guelf citizens; but the remainder became the property of a new corporate society, denominated the Guelf party (*parte Guelfa*) with a regular internal organization. The Guelf party had two councils, one of fourteen, and one of sixty members; three, or afterwards four, captains, elected by scrutiny every two months, a treasury, and common seal; a little republic within the republic of Florence. Their primary duty was to watch over the Guelf interest; and for this purpose they had a particular officer for the accusation of suspected Ghibelins.\* We hear not much, however, of the Guelf society for near a century after their establishment. The Ghibelins hardly ventured to shew themselves, after the fall of the White Guelfs in 1304, with whom they had been connected, and confiscation had almost annihilated that unfortunate faction. But, as the oligarchy of Guelf families lost part of its influence through the *divieto* and system of lottery, some persons of Ghibelin descent crept into public offices; and this was exaggerated by the zealots of an opposite party, as if the fundamental policy of the city was put into danger. The Guelf society had begun, as early as 1346, to manifest some disquietude at the foreign artizans, who, settling at Florence, and becoming members of some of the trading corporations, pretended to superior offices. They procured accordingly a law, excluding from public trust and magistracy all persons, not being natives of the city or its territory. Next year they advanced a step farther; and, with the view to prevent disorder which seemed to threaten the city, a law was passed, declaring every one, whose ancestors at any time since 1300 had been known Ghibelins, or who had not the reputation of sound Guelf principles, incapable of being drawn or elected to offices.† It is manifest, from the language of the historian

\* G. Villani, l. vii. c. 16.

† G. Villani, l. xii. c. 72. and 79.



CHAP. who relates these circumstances, and whose testimony is more re-  
III. markable from his having died several years before the politics of  
PART II. the Guelf corporation more decidedly shewed themselves, that the  
ITALY. real cause of their jealousy was not the increase of Ghibelinism, a  
merely plausible pretext, but the democratical character which the  
government had assumed, since the revolution of 1343 ; which raised  
the fourteen inferior arts to the level of those which the great mer-  
chants of Florence exercised. In the Guelf society, the ancient  
nobles retained a considerable influence. The laws of exclusion had  
never been applied to that corporation. Two of the captains were  
always noble, two were commoners. The people, in debarring the  
nobility from ordinary privileges, were little aware of the more  
dangerous channel which had been left open to their ambition.  
With the nobility some of the great commoners acted in concert,  
and, especially the family and faction of the Albizi. The introduc-  
tion of obscure persons into office still continued, and some measures  
more vigorous than the law of 1347 seemed necessary to restore the  
influence of their aristocracy. They proposed and, notwithstanding  
the reluctance of the priors, carried by violence, both in the preli-  
minary deliberations of the signiory, and in the two councils, a law  
by which every person accepting an office who should be convicted  
of Ghibelinism or of Ghibelin descent, upon testimony of public  
fame, became liable to punishment, capital or pecuniary, at the  
discretion of the priors. To this law they gave a retrospective effect,  
and indeed it appears to have been little more than a revival of the  
provisions made in 1347, which had probably been disregarded.  
Many citizens who had been magistrates within a few years were  
cast in heavy fines on this indefinite charge. But the more usual  
practice was to warn (*ammonire*) men before-hand against under-  
taking public trust. If they neglected this hint, they were sure to  
be treated as convicted Ghibelins. Thus a very numerous class,  
called *Ammoniti*, was formed of proscribed and discontented per-  
sons, eager to throw off the intolerable yoke of the Guelf society.  
For the imputation of Ghibelin connexions was generally an un-



founded pretext for crushing the enemies of the governing faction.\* Men of approved Guelf principles and origin were every day warned from their natural privileges of sharing in magistracy. This spread an universal alarm through the city; but the great advantage of union and secret confederacy rendered the Guelf society, who had also the law on their side, irresistible by their opponents. Meanwhile the public honour was well supported abroad; Florence had never before been so distinguished as during the prevalence of this oligarchy.†

The Guelf society had governed with more or less absoluteness for near twenty years, when the republic became involved, through the perfidious conduct of the papal legate, in a war with the Holy See. Though the Florentines were by no means superstitious, this hostility to the church appeared almost a solecism to determined Guelfs, and shocked those prejudices about names, which make up the politics of vulgar minds. The Guelf society, though it could not openly resist the popular indignation against Gregory XI., was not heartily inclined to this war. Its management fell therefore into the hands of eight commissioners, some of them not well affected to the society; whose administration was so successful and popular, as to excite the utmost jealousy in the Guelfs. They began to renew their warnings, and in eight months excluded fourscore citizens.‡

The tyranny of a court may endure for ages; but that of a faction is seldom permanent. In June 1378, the gonfalonier of justice was Salvestro de' Medici, a man of approved patriotism, whose family had been too notoriously of Guelf principles to make it decent for

\* Besides the effect of ancient prejudice, Ghibelinism was considered at Florence, in the fourteenth century, as immediately connected with tyrannical usurpation. The Guelf party, says Matteo Villani, is the foundation rock of liberty in Italy; so that if any Guelf becomes a tyrant, he must of necessity turn to the Ghibelin side; and of this there have been many instances. p. 481. So Giovanni Villani says of Passerino, lord

of Mantua, that his ancestors had been Guelfs, *ma per essere signore e tiranno si fece Ghibellino.* l. x. c. 99. And Matteo Villani of the Pepoli at Bologna; *essendo di natura Guelfi, per la tirannia erano quasi alienati della parte.* p. 69.

† M. Villani, p. 481. 637. 731. Ammirato. Machiavelli. Sismondi.

‡ Ammirato, p. 709.



CHAP. the society to warn him from office. He proposed to mitigate the  
 III. severity of the existing law. His proposition did not succeed; but  
 PART II. its rejection provoked an insurrection, the forerunner of still more  
 ITALY. alarming tumults. The populace of Florence, like that of other cities,  
 was terrible in the moment of sedition; and a party so long dreaded  
 shrunk before the physical strength of the multitude. Many leaders  
 of the Guelf society had their houses destroyed, and some fled from  
 the city. But instead of annulling their acts, a middle course was  
 adopted by the committee of magistrates who had been empowered to  
 reform the state; the Ammoniti were suspended three years longer from  
 office, and the Guelf society preserved with some limitations. This  
 temporizing course did not satisfy either the Ammoniti, or the popu-  
 lace. The greater arts were generally attached to the Guelf society.  
 Between them and the lesser arts, composed of retail and mechanical  
 traders, there was a strong jealousy. The latter were adverse to the  
 prevailing oligarchy, and to the Guelf society, by whose influence it  
 was maintained. They were eager to make Florence a democracy in  
 fact, as well as in name, by participating in the executive govern-  
 ment.

But every political institution appears to rest on too confined  
 a basis, to those whose point of view is from beneath it. While  
 the lesser arts were murmuring at the exclusive privileges of the com-  
 mercial aristocracy, there was yet an inferior class of citizens, who  
 thought their own claims to equal privileges irrefragable. The  
 arrangement of twenty-one trading companies had still left several  
 kinds of artizans unincorporated, and consequently unprivileged.  
 These had been attached to the art with which their craft had most  
 connexion, in a sort of dependent relation. Thus to the company of  
 drapers, the most wealthy of all, the various occupations, instru-  
 mental in the manufacture, as wool-combers, dyers and weavers,  
 were appendant.\* Besides the sense of political exclusion, these

\* Before the year 1340, according to Villani's calculation, the woollen trade occupied 30,000 persons. l. xi. c. 93.



artizans alledged, that they were oppressed by their employers of the art, and that when they complained to the consul, their judge in civil matters, no redress could be procured. A still lower order of the community was the mere populace, who did not practise any regular trade, or who only worked for daily hire. These were called Ciompi, a corruption, it is said, of the French compère.

“Let no one,” says Machiavel in this place, “who begins an innovation in a state, expect that he shall stop it at his pleasure, or regulate it according to his intention.” After about a month from the first sedition, another broke out, in which the ciompi, or lowest populace were alone concerned. Through the surprize, or cowardice, or disaffection of the superior citizens, this was suffered to get ahead, and for three days the city was in the hands of a tumultuous rabble. It was vain to withstand their propositions, had they even been more unreasonable than they were. But they only demanded the establishment of two new arts for the trades hitherto dependent, and one for the lower people; and that three of the priors should be chosen from the greater arts, three from the fourteen lesser, and two from those just created. Some delay however occurring to prevent the sanction of these innovations by the councils, a new fury took possession of the populace; the gates of the palace belonging to the signiory were forced open, the priors compelled to fly, and no appearance of a constitutional magistracy remained, to throw the veil of law over the excesses of anarchy. The republic seemed to rock from its foundation, and the circumstance to which historians ascribe its salvation is not the least singular in this critical epoch. One Michel di Lando, a wool-carder, half dressed and without shoes, happened to hold the standard of justice wrested from the proper officer when the populace burst into the palace. Whether he was previously conspicuous in the tumult is not recorded; but the wild capricious mob, who had destroyed what they had no conception how to rebuild, suddenly cried out that Lando should be gonfalonier or signior, and reform the city at his pleasure.

A choice, arising probably from wanton folly, could not have been



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better made by wisdom. Lando was a man of courage, moderation, and integrity. He gave immediate proofs of these qualities by causing his office to be respected. The eight commissioners of the war, who, though not instigators of the sedition, were well pleased to see the Guelf party so entirely prostrated, now fancied themselves masters, and began to nominate priors. But Lando sent a message to them, that he was elected by the people, and that he could dispense with their assistance. He then proceeded to the choice of priors. Three were taken from the greater arts; three from the lesser; and three from the two new arts, and the lower people. This eccentric college lost no time in restoring tranquillity, and compelled the populace by threat of punishment to return to their occupations. But the *ciompi* were not disposed to give up the pleasures of anarchy so readily. They were dissatisfied at the small share allotted to them in the new distribution of offices, and murmured at their gonfalonier as a traitor to the popular cause. Lando was aware that an insurrection was projected; he took measures with the more respectable citizens; the insurgents, when they shewed themselves, were quelled by force, and the gonfalonier retired from office with an approbation which all historians of Florence have agreed to perpetuate. Part of this has undoubtedly been founded on a consideration of the mischief which it was in his power to inflict. The *ciompi*, once checked, were soon defeated. The next gonfalonier was, like Lando, a woolcomber; but wanting the intrinsic merit of Lando, his mean station excited universal contempt. None of the arts could endure their low coadjutors; a short struggle was made by the populace, but they were entirely overpowered with considerable slaughter, and the government was divided between the seven greater and sixteen lesser arts in nearly equal proportions.

The party of the lesser arts, or inferior tradesmen, which had begun this confusion, were left winners when it ceased. Three men of distinguished families, who had instigated the revolution, became the leaders of Florence; Benedetto Alberti, Tomaso Strozzi, and Georgio Scali. Their government had at first to contend with the



ciompi, smarting under loss and disappointment. But a populace which is beneath the inferior mechanics may with ordinary prudence be kept in subjection by a government that has a well-organized militia at its command. The Guelf aristocracy was far more to be dreaded. Some of them had been banished, some fined, some ennobled; the usual consequences of revolution which they had too often practised to complain. A more iniquitous proceeding disgraces the new administration. Under pretence of conspiracy, the chief of the house of Albizi, and several of his most eminent associates, were thrown into prison. So little evidence of the charge appeared, that the podestà refused to condemn them; but the people were clamorous for blood, and half with, half without the forms of justice, these noble citizens were led to execution. The part he took in this murder sullies the fame of Benedetto Alberti, who in his general conduct had been more uniformly influenced by honest principles than most of his contemporaries. Those who shared with him the ascendancy in the existing government, Strozzi and Scali, abused their power by oppression towards their enemies, and insolence towards all. Their popularity was of course soon at an end. Alberti, a sincere lover of freedom, separated himself from men who seemed to emulate the arbitrary government they had overthrown. An outrage of Scali in rescuing a criminal from justice brought the discontent to a crisis; he was arrested, and lost his head on the scaffold; while Strozzi, his colleague, fled from the city. But this event was instantly followed by a reaction, which Alberti perhaps did not anticipate. Armed men filled the streets; the cry of Live the Guelfs was heard. After a three years depression, the aristocratical party regained its ascendant. They did not revive the severity practised towards the Ammoniti; but the two new arts, created for the small trades, were abolished, and the lesser arts reduced to a third part, instead of something more than one half, of public offices. Several persons who had favoured the plebeians were sent into exile; and among these Michel di Lando, whose great services in subduing anarchy ought to have secured the



CHAP. protection of every government. Benedetto Alberti, the enemy by  
 III. turns of every faction, because every faction was in its turn  
 PART II. oppressive, experienced some years afterwards the same fate. It is  
 ITALY. seldom a matter of private interest, though duty may sometimes  
 require it, to join a party to whom we have been actively hostile ;  
 the deserter is received with temporary welcome ; but, when the  
 hour of prosperity returns, the offence will be found inexpiable, and  
 the atonement forgotten. For half a century after this time, no  
 revolution took place at Florence. The Guelf aristocracy, strong in  
 opulence and antiquity, and rendered prudent by experience, under  
 the guidance of the Albizi family, maintained a preponderating  
 influence, without much departing, the times considered, from  
 moderation and respect for the laws.\*

It is sufficiently manifest, from this sketch of the domestic history  
 of Florence, how far that famous republic was from affording a  
 perfect security for civil rights or general tranquillity. They who  
 hate the name of free constitutions may exult in her internal  
 dissensions, as in those of Athens or Rome. But the calm philo-  
 sopher will not take his standard of comparison from ideal ex-  
 cellence, nor even from that practical good which has been reached  
 in our own unequalled constitution, and in some of the republics of  
 modern Europe. The men and the institutions of the fourteenth  
 century are to be measured by their contemporaries. Who would  
 not rather have been a citizen of Florence than a subject of the  
 Visconti? In a superficial review of history, we are sometimes apt  
 to exaggerate the vices of free states, and to lose sight of those  
 inherent in tyrannical power. The bold censoriousness of republican  
 historians, and the cautious servility of writers under an absolute

\* For this part of Florentine history, be-  
 sides Ammirato, Machiavel, and Sismondi,  
 I have read an interesting narrative of the  
 sedition of the ciompi, by Gino Capponi,  
 in the eighteenth volume of Muratori's col-  
 lection. It has an air of liveliness and truth  
 which is very pleasing, but it breaks off

rather too soon, at the instant of Lando's  
 assuming the office of banneret. Another  
 contemporary writer, Melchione di Stefani,  
 who seems to have furnished the materials of  
 the three historians above mentioned, has not  
 fallen in my way.



monarchy, conspire to mislead us as to the relative prosperity of nations. Acts of outrage and tumultuous excesses in a free state are blazoned in minute detail, and descend to posterity; the deeds of tyranny are studiously and perpetually suppressed. Even those historians who have no particular motives for concealment turn away from the monotonous and disgusting crimes of tyrants. "Deeds of cruelty," it is well observed by Matteo Villani, after relating an action of Bernabo Visconti, "are little worthy of remembrance; yet let me be excused for having recounted one out of many, as an example of the peril to which men are exposed under the yoke of an unbounded tyranny."\* The reign of Bernabo afforded abundant instances of a like kind. Second only to Eccelin among the tyrants of Italy, he rested the security of his dominion upon tortures and death, and his laws themselves enact the protraction of capital punishment through forty days of suffering.† His nephew Giovanni Maria is said, with a madness like that of Nero or Commodus, to have coursed the streets of Milan by night with blood-hounds, ready to chase and tear any unlucky passenger.‡ Nor were other Italian principalities free from similar tyrants, though none perhaps upon the whole so odious as the Visconti. The private history of many families, such for instance as the Scala and the Gonzaga, is but a series of assassinations. The ordinary vices of mankind assumed a tinge of portentous guilt in the palaces of Italian princes. Their revenge was fratricide, and their lust was incest.

Though fertile and populous, the proper district of Florence was by no means extensive. An independent nobility occupied the Tuscan Apennines with their castles. Of these the most conspicuous were the counts Guidi, a numerous and powerful family, who possessed a material influence in the affairs of Florence and of all Tuscany till the middle of the fourteenth century, and some of whom preserved their independence much longer.§ To the south

Acquisitions  
of territory  
by Florence.

\* P. 434.

† Sismondi, t. vi. p. 316. Corio, Ist. di Milano, p. 486.

‡ Corio, p. 595.

§ G. Villani, l. v. c. 37. 41. et alibi. The last of the counts Guidi, having unwisely



CHAP. the republics of Arezzo, Perugia and Siena; to the west, those of  
 III. Volterra, Pisa, and Lucca; Prato and Pistoja to the north, limited  
 PART II. the Florentine territory. It was late before these boundaries were  
 ITALY. removed. During the usurpations of Uguccione at Pisa, and of  
 Castruccio at Lucca, the republic of Florence was always unsuccessful in the field. After the death of Castruccio, she began to act more vigorously, and engaged in several confederacies with the powers of Lombardy, especially in a league with Venice against Mastino della Scala. But the republic made no acquisition of territory till 1351, when she annexed the small city of Prato, not ten miles from her walls.\* Pistoja, though still nominally independent, received a Florentine garrison about the same time. Several additions were made to the district, by fair purchase from the nobility of the Apennines, and a few by main force. The territory was still very little proportioned to the fame and power of Florence. The latter was founded upon her vast commercial opulence. Every Italian state employed mercenary troops, and the richest was of course the most powerful. In the war against Mastino della Scala in 1336, the revenues of Florence are reckoned by Villani at three hundred thousand florins; which, as he observes, is more than the king of Naples or of Aragon possesses.† The expenditure went at that time very much beyond the receipt, and was defrayed by loans from the principal mercantile firms, which were secured by public funds; the earliest instance, I believe, of that financial resource.‡ Her population was computed at ninety thousand souls. Villani

embarked in a confederacy against Florence, was obliged to give up his ancient patrimony in 1440.

\* M. Villani, p. 72. This was rather a measure of usurpation; but the republic had some reason to apprehend that Prato might fall into the hands of the Visconti. Their conduct towards Pistoja was influenced by the same motive; but it was still further removed from absolute justice. p. 91.

† G. Villani, l. xi. c. 90—93. These chapters contain a very full and interesting

statement of the revenues, expenses, population, and internal condition of Florence at that time. Part of them is extracted by M. Sismondi. t. v. p. 365. The gold florin was worth about ten shillings of our money. The district of Florence was not then much larger than Middlesex. At present, the revenues of the whole duchy of Tuscany are much less than 150,000*l.* sterling; though the difference in the value of money is at least six or seven to one.

‡ G. Villani, l. xi. c. 49.



reckons the district at eighty thousand men, I presume, those only of military age; but this calculation must have been too large, especially if he did not include the city in his estimate.\* Tuscan, though well cultivated and flourishing, does not contain by any means so great a number of inhabitants in that space at present.

The first eminent conquest made by Florence was that of Pisa, early in the fifteenth century. Pisa had been distinguished as a commercial city ever since the age of the Othos. From her ports, and those of Genoa, the earliest naval armaments of the western nations were fitted out against the Saracen corsairs who infested the Mediterranean coasts. In the eleventh century, she undertook, and after a pretty long struggle, completed the important, or at least the

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Pisa.

\* C. 93. Troviamo diligentemente, che in questi tempi avea in Firenze circa a 25 mila uomini da portare arme da 15 in 70 anni—Istamavasi avere in Firenze da 90 mila bocche tra uomini e femine e fanciulli, per l'avviso del pane bisognava al continuo alla città. These proportions, of 25,000 men between fifteen and seventy, and of 90,000 souls, are as nearly as possible consonant to modern calculation of which Villani knew nothing, which confirms his accuracy; though M. Sismondi asserts, p. 369. that the city contained 150,000 inhabitants, on no better authority, as far as appears, than that of Boccaccio, who says, that 100,000 perished in the great plague of 1348, which was generally supposed to destroy two out of three. But surely two vague suppositions are not to be combined, in order to overthrow such a testimony as that of Villani, who seems to have consulted all registers and other authentic documents in his reach.

What Villani says of the population of the district is not quite so clear. Rationavasi in questi tempi avere nel contado e distretto di Firenze de 80 mila uomini. Troviamo dal piovano, che battezzava i fanciulli, imperoche per ogni maschio, che battezzava in San Giovanni, per avere il novero, metteva una fava nera, e per ogni femina una bianca, trovò, ch' erano l'anno in questi tempi dalle 5800 in sei mila, avanzando le più volte il sesso mascolino da 300 in 500 per anno.

Unless we could determine with more certainty than Villani's language affords, whether the number of 5800 or 6000 births included both sexes, (as I rather suppose,) or only the males, it cannot be applied to determine the population of the district. Baptisms could only be performed in one public font, at Florence, Pisa and some other cities. The building that contained this font was called the Baptistery. The baptisteries of Florence and Pisa still remain, and are well known. Du Cange v. Baptisterium. But there were fifty-seven parishes, and one hundred and ten churches within the city. Villani. *ibid.* Mr. Roscoe has published a manuscript, evidently written after the taking of Pisa in 1406, though, as I should guess, not long after that event, containing a proposition for an income tax of ten per cent. throughout the Florentine dominions. Among its other calculations, the population is reckoned at 400,000; assuming that to be the proportion to 80,000 men of military age, though certainly beyond the mark. It is singular that the district of Florence in 1343, is estimated by Villani to contain as great a number, before Pisa, Volterra, or even Prato and Pistoja had been annexed to it. This shews the fallacy of statistical calculations, especially such as are contained in ancient historians, which cannot be tried by any collateral facts. Roscoe's *Life of Lorenzo*. Appendix, No. 16.



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splendid conquest of Sardinia ; an island long subject to a Moorish chieftain. Several noble families of Pisa, who had defrayed the chief cost of this expedition, shared the island in districts, which they held in fief of the republic.\* At a later period, the Balearic isles were subjected, but not long retained by Pisa. Her naval prowess was supported by her commerce. A writer of the twelfth century reproaches her with the Jews, the Arabians, and other “monsters of the sea,” who thronged in her streets.† The crusades poured fresh wealth into the lap of the maritime Italian cities. In some of those expeditions a great portion of the armament was conveyed by sea to Palestine, and freighted the vessels of Pisa, Genoa, and Venice. When the Christians had bought with their blood the sea-coast of Syria, these republics procured the most extensive privileges in the new states that were formed out of their slender conquests, and became the conduits through which the produce of the east flowed in upon the ruder natives of Europe. Pisa maintained a large share of this commerce, as well as of maritime greatness, till near the end of the thirteenth century. In 1282, we are told by Villani, she was in great power, possessing Sardinia, Corsica, and Elba ; “from whence the republic, as well as private persons, derived large revenues ; and almost ruled the sea by their ships and merchandizes, and beyond sea were very powerful in the city of Acre, and much connected with the principal citizens of Acre.”‡ The prosperous æra of the Pisans is marked by their public edifices. She was the first Italian city that took a pride in architectural magnificence. Her cathedral is of the eleventh century ; the baptistery, the famous inclined tower, or belfry, the arcades that surround the Campo Santo, or cemetery of Pisa, are of the twelfth, or, at latest, of the thirteenth.§

\* Sismondi, t. i. p. 345. 372.

† Qui pergit Pisas, videt illic monstra marina ;

Hæc urbs Paganis, Turchis, Libycis quoque, Parthis, Sordida ; Chaldæi sua lustrant mœnia tetri.

Donizo, Vita Comitissæ Mathildis, apud Muratori, Dissert. 31.

‡ Villani, l. vi. c. 83.

§ Sismondi, t. iv. p. 178. Tiraboschi, t. iii. p. 406.



It would have been no slight anomaly in the annals of Italy, or we might say, of mankind, if two neighbouring cities, competitors in every mercantile occupation, and every naval enterprize, had not been perpetual enemies to each other. One is more surprised, if the fact be true, that no war broke out between Pisa and Genoa till 1119.\* From this time at least they continually recurred. An equality of forces and of courage kept the conflict uncertain for the greater part of two centuries. Their battles were numerous, and sometimes, taken separately, decisive; but the public spirit and resources of each city were called out by defeat, and we generally find a new armament replace the losses of an unsuccessful combat. In this respect, the naval contest between Pisa and Genoa, though much longer protracted, resembles that of Rome and Carthage in the first Punic war. But Pisa was reserved for her Ægades. In one fatal battle, off the little isle of Meloria, in 1284, her whole navy was destroyed. Several unfortunate and expensive armaments had almost exhausted the state; and this was the last effort, by private sacrifices, to equip one more fleet. After this defeat it was in vain to contend for empire. Eleven thousand Pisans languished for many years in prison; it was a current saying, that whoever would see Pisa, should seek her at Genoa. A treacherous chief, that Count Ugolino, whose guilt was so terribly avenged, is said to have purposely lost the battle, and prevented the ransom of the captives, to secure his power; accusations that obtain easy credit with an unsuccessful people.

From the epoch of the battle of Meloria, Pisa ceased to be a maritime power. Forty years afterwards she was stripped of her ancient colony, the island of Sardinia. The four Pisan families who had been invested with that conquest had been apt to consider it as their absolute property; their appellation of judge seemed to indicate deputed power; but they sometimes assumed that of king; and several attempts had been made to establish an immediate

\* Muratori, ad ann. 1119.



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dependence on the empire, or even on the pope. A new potentate had now come forward on the stage. The malecontent feudataries of Sardinia made overtures to the king of Aragon, who had no scruples about attacking the indisputable possession of a declining republic. Pisa made a few unavailing efforts to defend Sardinia; but the nominal superiority was hardly worth a contest; and she surrendered her rights to the crown of Aragon. Her commerce now dwindled with her greatness. During the fourteenth century, Pisa almost renounced the ocean, and directed her main attention to the politics of Tuscany. Ghibelin by invariable predilection, she was in constant opposition to the Guelf cities which looked up to Florence. But in the fourteenth century the names of freeman and Ghibelin were not easily united; and a city in that interest stood insulated between the republics of an opposite faction, and the tyrants of her own. Pisa fell several times under the yoke of usurpers; she was included in the wide-spreading acquisitions of Gian Galeazzo Visconti; at his death one of his family seized the dominion, and finally the Florentines purchased for 400,000 florins a rival and once equal city. The Pisans made a resistance more according to what they had been, than what they were.

Genoa.—  
Her wars  
with Pisa.

The early history of Genoa, in all her foreign relations, is involved in that of Pisa. As allies against the Saracens of Africa, Spain and the Mediterranean islands, as corrivals in commerce with these very Saracens, or with the Christians of the east, as co-operators in the great expeditions under the banner of the cross, or as engaged in deadly warfare with each other, the two republics stand in continual parallel. From the beginning of the thirteenth century, Genoa was, I think, the more prominent and flourishing of the two. She had conquered the island of Corsica, at the same time that Pisa reduced Sardinia; and her acquisition, though less considerable, was longer preserved. Her territory at home, the ancient Liguria, was much more extensive, and, what was most important, contained a greater range of sea coast than that of Pisa. But the commercial and maritime prosperity of Genoa may be dated from the recovery of



Constantinople by the Greeks in 1261. Jealous of the Venetians, by whose arms the Latin emperors had been placed, and were still maintained on their throne, the Genoese assisted Palæologus in overturning that usurpation. They obtained in consequence the suburb of Pera or Galata over against Constantinople as an exclusive settlement, where their colony was ruled by a magistrate sent from home, and frequently defied the Greek capital with its armed gallies and intrepid seamen. From this convenient station Genoa extended her commerce into the Black Sea, and established her principal factory at Caffa, in the Crimean peninsula. This commercial monopoly, for such she endeavoured to render it, aggravated the animosity of Venice. As Pisa retired from the field of waters, a new enemy appeared upon the horizon to dispute the maritime dominion of Genoa. Her first war with Venice was in 1258. The second was not till after the victory of Meloria had crushed her more ancient enemy. It broke out in 1293, and was prosecuted with determined fury, and a great display of naval strength on both sides. One Genoese armament, as we are assured by an historian, consisted of one hundred and fifty-five gallies, each manned with from two hundred and twenty to three hundred sailors;\* a force astonishing to those who know the slender resources of Italy in modern times, but which is rendered credible by several analogous facts of good authority. It was, however, beyond any other exertion. The usual fleets of Genoa and Venice were of seventy to ninety gallies.

Perhaps the naval exploits of these two republics may afford a more interesting spectacle to some minds than any other part of Italian history. Compared with military transactions of the same age, they are more sanguinary, more brilliant, and exhibit full as much skill and intrepidity. But maritime warfare is scanty in circumstances, and the indefiniteness of its locality prevents it from resting in the memory. And though the wars of Genoa and Venice were not always so unconnected with territorial politics as those of

\* Muratori, A. D. 1295.



CHAP. the former city with Pisa, yet, from the alternation of success and  
 III. equality of forces, they did not often produce any decisive effect.  
 PART II. One memorable encounter in the sea of Marmora, where the Genoese  
 ITALY. fought and conquered single-handed against the Venetians, the  
 1352 Catalans, and the Greeks, hardly belongs to Italian history.\*

War of  
 Chioza.

But the most remarkable war, and that productive of the greatest consequences, was one that commenced in 1378, after several acts of hostility in the Levant, wherein the Venetians appear to have been the principal aggressors. Genoa did not stand alone in this war. A formidable confederacy was exerted against Venice, who had given provocation to many enemies. Of this Francis Carrara, signior of Padua, and the king of Hungary were the leaders. But the principal struggle was, as usual, upon the waves. During the winter of 1378, a Genoese fleet kept the sea, and ravaged the shores of Dalmatia. The Venetian armament had been weakened by an epidemic disease, and when Vittor Pisani, their admiral, gave battle to the enemy, he was compelled to fight with a hasty conscription of landsmen against the best sailors in the world. Entirely defeated, and taking refuge at Venice with only seven gallies, Pisani was cast into prison, as if his ill fortune had been his crime. Meanwhile the Genoese fleet, augmented by a strong reinforcement, rode before the long natural ramparts that separate the lagunes of Venice from the Adriatic. Six passages intersect the islands, which constitute this barrier, besides the broader outlets of Brondolo and Fossone, through which the waters of the Brenta and the Adige are discharged. The lagune itself, as is well known, consists of extremely shallow water, unnavigable for any vessel larger than a skiff, except along the course of artificial and intricate passages. Notwithstanding the apparent difficulties of such an enterprize, Pietro Doria, the Genoese admiral, determined to reduce the city. His first successes gave him reason to hope. He forced the passage, and stormed the little town of Chioza, built upon the inside of the isle bearing that name,

\* Gibbon, c. 63.



about twenty-five miles south of Venice. Nearly four thousand prisoners fell here into his hands ; an augury, as it seemed, of a more splendid triumph. In the consternation this misfortune inspired at Venice, the first impulse was to ask for peace. The ambassadors carried with them seven Genoese prisoners, as a sort of peace-offering to the admiral, and were empowered to make large and humiliating concessions, reserving nothing but the liberty of Venice. Francis Carrara strongly urged his allies to treat for peace. But the Genoese were stimulated by long hatred, and intoxicated by this unexpected opportunity of revenge. Doria, calling the ambassadors into council, thus addressed them : “ Ye shall obtain no peace from us, I swear to you, nor from the lord of Padua, till first we have put a curb in the mouths of those wild horses that stand upon the place of St. Mark. When they are bridled, you shall have enough of peace. Take back with you your Genoese captives, for I am coming within a few days to release both them and their companions from your prisons.” When this answer was reported to the senate, they prepared to defend themselves with the characteristic firmness of their government. Every eye was turned towards a great man unjustly punished, their admiral Vittor Pisani. He was called out of prison to defend his country amidst general acclamations ; but equal in magnanimity and simple republican patriotism to the noblest characters of antiquity, Pisani repressed the favouring voices of the multitude, and bade them reserve their enthusiasm for St. Mark, the symbol and war-cry of Venice. Under the vigorous command of Pisani, the canals were fortified or occupied by large vessels armed with artillery ; thirty-four gallies were equipped ; every citizen contributed according to his power ; in the entire want of commercial resources (for Venice had not a merchant ship during this war) private plate was melted ; and the senate held out the promise of ennobling thirty families, who should be most forward in this strife of patriotism.

The new fleet was so ill provided with seamen, that for some months the admiral employed them only in manœuvring along the



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canals. From some unaccountable supineness, or more probably from the insuperable difficulties of the undertaking, the Genoese made no assault upon the city. They had indeed fair grounds to hope its reduction by famine or despair. Every access to the continent was cut off by the troops of Padua; and the king of Hungary had mastered almost all the Venetian towns in Istria and along the Dalmatian coast. The doge Contarini, taking the chief command, appeared at length with his fleet near Chioza, before the Genoese were aware. They were still less aware of his secret design. He pushed one of the large round vessels then called *cocche* into the narrow passage of Chioza, which connects the lagune with the sea, and mooring her athwart the channel, interrupted that communication. Attacked with fury by the enemy, this vessel went down on the spot, and the doge improved his advantage, by sinking loads of stones upon her, until the passage became absolutely unnavigable. It was still possible for the Genoese fleet to follow the principal canal of the lagune towards Venice and the northern passages, or to sail out of it by the harbour of Brondolo; but, whether from confusion or from miscalculating the dangers of their position, they suffered the Venetians to close the canal upon them by the same means they had used at Chioza, and even to place their fleet in the entrance of Brondolo, so near to the lagune that the Genoese could not form their ships in line of battle. The circumstances of the two combatants were thus entirely changed. But the Genoese fleet, though besieged in Chioza, was impregnable, and their command of the land secured them from famine. Venice, notwithstanding her unexpected success, was still very far from secure; it was difficult for the doge to keep his position through the winter; and if the enemy could appear in open sea, the risks of combat were extremely hazardous. It is said, that the senate deliberated upon transporting the seat of their liberty to Candia, and that the doge had announced his intention to raise the siege of Chioza, if expected succours did not arrive by the first of January 1380. On that very day, Carlo Zeno, an admiral, who, ignorant of the dangers of his



country, had been supporting the honour of her flag in the Levant, and on the coasts of Liguria, appeared with a reinforcement of eighteen gallies, and a store of provisions. From that moment the confidence of Venice revived. The fleet, now superior in strength to the enemy, began to attack them with vivacity. After several months of obstinate resistance, the Genoese, whom their republic had ineffectually attempted to relieve by a fresh armament, blocked up in the town of Chioza, and pressed by hunger, were obliged to surrender. Nineteen gallies only out of forty-eight were in good condition; and the crews were equally diminished in the ten months of their occupation of Chioza. The pride of Genoa was deemed to be justly humbled; and even her own historian confesses, that God would not suffer so noble a city as Venice to become the spoil of a conqueror.\*

Each of the two republics had sufficient reason to lament their mutual prejudices, and the selfish cupidity of their merchants, which usurps in all maritime countries the name of patriotism. Though the capture of Chioza did not terminate the war, both parties were exhausted, and willing, next year, to accept the mediation of the duke of Savoy. By the peace of Turin, Venice surrendered most of her territorial possessions to the king of Hungary. That prince, and Francis Carrara, were the only gainers. Genoa obtained the isle of Tenedos, one of the original subjects of dispute; a poor indemnity for her losses. Though upon a hasty view, the result of this war appears more unfavourable to Venice, yet in fact it is the epoch of the decline of Genoa. From this time she never commanded the ocean with such navies as before; her commerce gradually went into decay; and the fifteenth century, the most splendid in the annals of Venice, is, till modern times, the most ignominious in those of Genoa. But this was partly owing to internal dissensions, by which her liberty, as well as glory, was for a while suspended.

\* G. Stella, *Annales Genuenses*. Gataro, *Istoria Padovana*. Both these contemporary works, of which the latter gives the best relation, are in the seventeenth volume of Mu-

ratori's collection. M. Sismondi's narrative is very clear and spirited. *Hist. des Républ. Ital.* t. vii. p. 205—232.



## CHAP.

## III.

## PART II.

## ITALY.

Government of Ge-  
noa.

At Genoa, as in other cities of Lombardy, the principal magistrates of the republic were originally styled Consuls. A chronicle drawn up under the inspection of the senate perpetuates the names of these early magistrates. It appears that their number varied from four to six, annually elected by the people in their full parliament. These consuls presided over the republic and commanded the forces by land and sea; while another class of magistrates, bearing the same title, were annually elected by the several companies into which the people were divided, for the administration of civil justice.\* This was the regimen of the twelfth century; but in the next, Genoa fell into the fashion of entrusting the executive power to a foreign podestà. The podestà was assisted by a council of eight, chosen by the eight companies of nobility. This institution, if indeed it were any thing more than a custom or usurpation, originated probably not much later than the beginning of the thirteenth century. It gave not only an aristocratic, but almost an oligarchical character to the constitution, since many of the nobility were not members of these eight societies. Of the senate or councils we hardly know more than their existence; they are very little mentioned by historians. Every thing of a general nature, every thing that required the expression of public will, was reserved for the entire and unrepresented sovereignty of the people. In no city was the parliament so often convened; for war, for peace, for alliance, for change of government.† These very dissonant elements were not likely to harmonize. The people, sufficiently accustomed to the forms of democracy to imbibe its spirit, repined at the practical influence which was thrown into the scale of the nobles. Nor did some of the latter class scruple to enter that path of ambition, which leads to power by flattery of the populace. Two or three times within the thirteenth century, an high-born demagogue had nearly overturned the general liberty, like the Torriani at Milan, through the pretence of defending that of individuals.‡ Among the nobility themselves, four houses were distinguished

\* Sismondi, t. i. p. 353.

† Id. t. iii. p. 319.

‡ Id. p. 324.



beyond all the rest; the Grimaldi, the Fieschi, the Doria, the Spinola; the two former of Guelf politics, the latter adherents of the empire.\* Perhaps their equality of forces, and a jealousy which even the families of the same faction entertained of each other, prevented any one from usurping the signiory at Genoa. Neither the Guelf nor Ghibelin party obtaining a decisive preponderance, continual revolutions occurred in the city. The most celebrated was the expulsion of the Ghibelins under the Doria and Spinola in 1318. They had recourse to the Visconti of Milan, and their own resources were not unequal to cope with their country. The Guelfs thought it necessary to call in Robert king of Naples, always ready to give assistance as the price of dominion, and conferred upon him the temporary sovereignty of Genoa. A siege of several years duration, if we believe an historian of that age, produced as many remarkable exploits as that of Troy. They have not proved so interesting to posterity. The Ghibelins continued for a length of time excluded from the city, but in possession of the sea port of Savona, whence they traded and equipped fleets, as a rival republic, and even entered into a separate war with Venice.† Experience of the uselessness of hostility, and the loss to which they exposed their common country, produced a reconciliation, or rather a compromise in 1331, when the Ghibelins returned to Genoa. But the people felt that many years of misfortune had been owing to the private enmities of four overbearing families. An opportunity soon offered of reducing their influence within very narrow bounds.

The Ghibelin faction was at the head of affairs in 1339, a Doria and a Spinola being its leaders, when the discontent of a large fleet in want of pay broke out in open insurrection. Savona and the neighbouring towns took arms avowedly against the aristocratical tyranny; and the capital was itself on the point of joining the insurgents. There was, by the Genoese constitution, a magistrate, named the Abbot of the people, acting as a kind of tribune for their pro-

Election of  
the first  
doge.

\* Sismondi, t. iii. p. 328.

† Villani, l. ix. passim.



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tection against the oppression of the nobility. His functions are not, however, in any book I have seen, very clearly defined. This office had been abolished by the present government, and it was the first demand of the malecontents that it should be restored. This was acceded to, and twenty delegates were appointed to make the choice. While they delayed and the populace was grown weary of waiting, a nameless artizan called out from an elevated station, that he could direct them to a fit person. When the people, in jest, bade him speak on, he uttered the name of Simon Boccanegra. This was a man of noble birth, and well esteemed, who was then present among the crowd. The word was suddenly taken up; a cry was heard that Boccanegra should be abbot; he was instantly brought forward, and the sword of justice forced into his hand. As soon as silence could be obtained, he modestly thanked them for their favour, but declined an office, which his nobility disqualified him from exercising. At this, a single voice out of the crowd exclaimed, *Signior*; and this title was reverberated from every side. Fearful of worse consequences, the actual magistrates urged him to comply with the people, and accept the office of abbot. But Boccanegra, addressing the assembly, declared his readiness to become their abbot, signior, or whatever they would. The cry of signior was now louder than before; while others cried out, let him be duke. The latter title was received with greater approbation; and Boccanegra was conducted to the palace, the first duke, or doge of Genoa.\*

Subsequent  
revolutions.

Caprice alone, or an idea of more pomp and dignity, led the populace, we may conclude, to prefer this title to that of signior; but it produced important and highly beneficial consequences. In all neighbouring cities, an arbitrary government had been already established under their respective signiors; the name was associated with indefinite power; while that of doge had only been taken by the elective and very limited chief magistrate of another maritime republic. Neither Boccanegra, nor his successors, ever rendered

\* G. Stella. Annal. Genuenses, in Script. Rer. Ital. t. xvii. p. 1072.



their authority unlimited or hereditary. The constitution of Genoa, CHAP. III. from an oppressive aristocracy, became a mixture of the two other PART II. forms, with an exclusion of the nobles from power. Those four ITALY. great families, who had domineered alternately for almost a century, lost their influence at home after the revolution of 1339. Yet, what is remarkable enough, they were still selected in preference for the highest of trusts; their names are still identified with the glory of Genoa; her fleets hardly sailed but under a Doria, a Spinola, or a Grimaldi; such confidence could the republic bestow upon their patriotism, or that of those whom they commanded. Meanwhile two or three new families, a plebeian oligarchy, filled their place in domestic honours; the Adorni, the Fregosi, the Montalti, contended for the ascendant. From their competition ensued revolutions too numerous almost for a separate history; in four years, from 1390, to 1394, the doge was ten times changed; swept away or brought back in the fluctuations of popular tumult. Antoniotto Adorno, four times doge of Genoa, had sought the friendship of Gian Galeazzo Visconti; but that crafty tyrant meditated the subjugation of the republic, and played her factions against one another to render her fall secure. Adorno perceived that there was no hope for ultimate independence, but by making a temporary sacrifice of it. His own power, ambitious as he had been, he voluntarily resigned; and placed the republic under the protection or signiory of the king of France. Terms were stipulated, very favourable to her liberties; but with a French garrison once received into the city, they were not always sure of observance.\*

While Genoa lost even her political independence, Venice became Venice. more conspicuous and powerful than before. That famous republic deduces its original, and even its liberty, from an æra beyond the commencement of the middle ages. The Venetians boast of a perpetual emancipation from the yoke of barbarians. From that ignominious servitude some natives, or, as their historians will have it

\* Sismondi, t. vii. p. 237. 367.



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Her depen-
dence on the
Greek em-
pire.

nobles of Aquileja, and neighbouring towns,* fled to the small cluster of islands that rise amidst the shoals at the mouth of the Brenta. Here they built the town of Rivoalto, the modern Venice, in 421; but their chief settlement was, till the beginning of the ninth century, at Malamocco. A living writer has, in a passage of remarkable eloquence, described the sovereign republic, immoveable upon the bosom of the waters from which her palaces emerge, contemplating the successive tides of continental invasion, the rise and fall of empires, the change of dynasties, the whole moving scene of human revolution; till, in her own turn, the last surviving witness of antiquity, the common link between two periods of civilization, has submitted to the destroying hand of time.† Some part of this renown must, on a cold-blooded scrutiny, be detracted from Venice. Her independence was, at the best, the fruit of her obscurity. Neglected upon their islands, a people of fishermen might without molestation elect their own magistrates; a very equivocal proof of sovereignty in cities much more considerable than Venice. But both the western and the eastern empire alternately pretended to exercise dominion over her; she was conquered by Pepin, son of Charlemagne, and restored by him, as the chronicles say, to the Greek emperor Nicephorus. There is every appearance that the Venetians had always considered themselves as subject, in a large sense not exclusive of their municipal self-government, to the eastern empire.‡ And this

* Ebbe principio, says Sanuto haughtily, non da pastori, come ebbe Roma, ma da potenti, e nobili.

† Sismondi, t. i. p. 309.

‡ Nicephorus stipulates with Charlemagne for his faithful city of Venice, Quæ in devotione imperii illibata steterant. Danduli Chronicon, in Muratori. Script. Rer. Ital. t. xii. p. 156. In the tenth century, Constantine Porphyrogenitus, in his book De Administratione Imperii, claims the Venetians as his subjects, though he admits that they had, for peace sake, paid tribute to Pepin and his successors, as kings of Italy. p. 71. I have never seen the famous Squittinio della li-

bertà Veneta, which gave the republic so much offence in the seventeenth century: but a very strong case is made out against their early independence in Giannone's history. t. ii. p. 283. edit. Haia, 1753. Muratori informs us, that so late as 1084, the doge obtained the title of Imperialis Protosevastos from the court of Constantinople; a title which he continued always to use. (Annali d'Italia, ad ann.) But I should lay no stress on this circumstance. The Greek, like the German emperors in modern times, had a mint of specious titles, which passed for ready money over Christendom.

connexion was not broken, in the early part at least, of the tenth century. But, for every essential purpose, Venice might long before be deemed an independent state. Her doge was not confirmed at Constantinople; she paid no tribute, and lent no assistance in war. Her own navies, in the ninth century, encountered the Normans, the Saracens, and the Sclavonians in the Adriatic sea. Upon the coast of Dalmatia were several Greek cities, which the empire had ceased to protect; and which, like Venice itself, became republics for want of a master. Ragusa was one of these, and, more fortunate than the rest, survived as an independent city till our own age. In return for the assistance of Venice, these little sea-ports put themselves under her government; the Sclavonian pirates were repressed; and after acquiring, partly by consent, partly by arms, a large tract of maritime territory, the doge took the title of duke of Dalmatia, which is said by Dandolo to have been confirmed at Constantinople. 997 Three or four centuries, however, elapsed, before the republic became secure of these conquests, which were frequently wrested from her by rebellions of the inhabitants, or by her powerful neighbour, the king of Hungary.

Conquest of
Dalmatia.

A more important source of Venetian greatness was commerce. In the darkest and most barbarous period, before Genoa, or even Pisa, had entered into mercantile pursuits, Venice carried on an extensive traffic both with the Greek and Saracen regions of the Levant. The crusades enriched and aggrandized Venice more perhaps than any other city. Her splendour may, however, be dated from the taking of Constantinople by the Latins in 1204. In this famous enterprize, which diverted a great armament destined for the recovery of Jerusalem, the French and Venetian nations were alone engaged; but the former only as private adventurers, the latter with the whole strength of their republic under its doge, Henry Dandolo. Three eighths of the city of Constantinople, and an equal proportion of the provinces, were allotted to them in the partition of the spoil, and the doge took the singular, but accurate title, Duke of three eighths of the Roman empire. Their share was

Her acquisitions
in the
Levant.

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increased by purchases from less opulent crusaders, especially one of much importance, the island of Candia, which they retained till the middle of the seventeenth century. These foreign acquisitions were generally granted out in fief to private Venetian nobles under the supremacy of the republic.* It was thus that the Ionian islands, to adopt the vocabulary of our day, came under the dominion of Venice, and guaranteed that sovereignty which she now began to pretend over the Adriatic. Those of the Archipelago were lost in the sixteenth century. This political greatness was sustained by an increasing commerce. No Christian state preserved so considerable an intercourse with the Mohammedans. While Genoa kept the keys of the Black Sea by her colonies of Pera and Caffa, Venice directed her vessels to Acre and Alexandria. These connexions, as is the natural effect of trade, deadened the sense of religious antipathy; and the Venetians were sometimes charged with obstructing all efforts towards a new crusade, or even any partial attacks upon the Mohammedan nations.

Venetian
government.

The earliest form of government at Venice, as we collect from an epistle of Cassiodorus in the sixth century, was by twelve annual tribunes. Perhaps the union of the different islanders was merely federative. However, in 697, they resolved to elect a chief magistrate by name of duke, or, in their dialect, doge of Venice. No councils appear to have limited his power, or represented the national will. The doge was general and judge; he was sometimes permitted to associate his son with him, and thus to prepare the road for hereditary power; his government had all the prerogatives, and, as far as in such a state of manners was possible, the pomp of a monarchy. But he acted in important matters with the concurrence of a general assembly; though from the want of positive restraints his executive government might be considered as nearly absolute. Time, however, demonstrated to the Venetians the imperfections of such a constitution. Limitations were accordingly

* Sismondi, t. ii. p. 431.

imposed on the doge in 1032; he was prohibited from associating a son in the government, and obliged to act with the consent of two elected counsellors, and, on important occasions, to call in some of the principal citizens. No other change appears to have taken place till 1172; long after every other Italian city had provided for its liberty by constitutional laws, more or less successful, but always manifesting a good deal of contrivance and complication. Venice was, however, dissatisfied with her existing institutions. General assemblies were found, in practice, inconvenient and unsatisfactory. Yet some adequate safeguard against a magistrate of indefinite powers was required by freemen. A representative council, as in other republics, justly appeared the best innovation that could be introduced.*

The great council of Venice, as established in 1172, was to consist of four hundred and eighty citizens, equally taken from the six districts of the city, and annually renewed. But the election was not made immediately by the people. Two electors, called tribunes, from each of the six districts, appointed the members of the council by separate nomination. These tribunes, at first, were themselves chosen by the people; so that the intervention of this electoral body did not apparently trespass upon the democratical character of the constitution. But the great council, principally composed of men of high birth, and invested by the law with the appointment of the doge and of all the councils of magistracy, seem, early in the thirteenth century, to have assumed the right of naming their own constituents. Besides appointing the tribunes, they took upon themselves another privilege; that of confirming or rejecting their successors, before they resigned their functions. These usurpations rendered the annual election almost nugatory; the same members

* Sismondi, t. iii. p. 287. As I have never met with the *Storia civile Veneta* by Vettor Sandi, in nine vols. 4to., or even Laugier's *History of Venice*, my reliance has chiefly been placed on M. Sismondi, who has made use of Sandi, the latest and

probably most accurate historian. To avoid frequent reference, the principal passages in Sismondi relative to the domestic revolutions of Venice are, t. i. p. 323. t. iii. p. 287—300. t. iv. pp. 349—370.

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were usually renewed, and though the dignity of counsellor was not yet hereditary, it remained, upon the whole, in the same families. In this transitional state the Venetian government continued during the thirteenth century; the people actually debarred of power, but an hereditary aristocracy not completely or legally confirmed. The right of electing or rather of re-electing the great council was transferred, in 1297, from the tribunes, whose office was abolished, to the council of forty; they ballotted upon the names of the members who already sat; and whoever obtained twelve favouring balls out of forty retained his place. The vacancies occasioned by rejection or death, were filled up by a supplemental list formed by three electors, nominated in the great council. But they were expressly prohibited by laws of 1298 and 1300, from inserting the name of any one whose paternal ancestors had not enjoyed the same honour. Thus an exclusive hereditary aristocracy was finally established. And the personal rights of noble descent were rendered complete in 1319, by the abolition of all elective forms. By the constitution of Venice, as it was then settled, every descendant of a member of the great council, on attaining twenty-five years of age, entered as of right into that body, which of course became unlimited in its numbers.*

But an assembly so numerous as the great council, even before it was thus thrown open to all the nobility, could never have conducted the public affairs with that secrecy and steadiness which were characteristic of Venice; and without an intermediary power between the doge and the patrician multitude, the constitution would have gained nothing in stability to compensate for the loss of

* These gradual changes between 1297 and 1319 were first made known by Sandi, from whom M. Sismondi has introduced the facts into his own history. I notice this, because all former writers, both ancient and modern, fix the complete and final establishment of the Venetian aristocracy in 1297.

Twenty-five years complete was the statutable age, at which every Venetian noble

had a right to take his seat in the great council. But the names of those who had passed the age of twenty were annually put into an urn, and one-fifth drawn out by lot, who were thereupon admitted. On an average, therefore, the age of admission was about twenty-three. Jannotus de Republ. Venet. Contareni. Amelot de la Houssaye.

popular freedom. The great council had proceeded very soon after its institution to limit the ducal prerogatives. That of exercising criminal justice, a trust of vast importance, was transferred in 1179 to a council of forty members annually chosen. The executive government itself was thought too considerable for the doge without some material limitations. Instead of naming his own assistants or *pregadi*, he was only to preside in a council of sixty members, to whom the care of the state in all domestic and foreign relations, and the previous deliberation upon proposals submitted to the great council, was confided. This council of *pregadi*, generally called in later times the senate, was enlarged in the fourteenth century by sixty additional members; and as a great part of the magistrates had also seats in it, the whole number amounted to between two and three hundred. Though the legislative power, properly speaking, remained with the great council, the senate used to impose taxes, and had the exclusive right of making peace and war. It was annually renewed, like almost all other councils at Venice, by the great council. But since even this body was too numerous for the preliminary discussion of business, six counsellors, forming, along with the doge, the signiory, or visible representative of the republic, were empowered to dispatch orders, to correspond with ambassadors, to treat with foreign states, to convoke and preside in the councils, and perform other duties of an administration. In part of these they were obliged to act with the concurrence of what was termed the college, comprizing, besides themselves, certain select counsellors, from different constituted authorities.*

It might be imagined, that a dignity so shorn of its lustre as that of doge would not excite any overweening ambition. But the Venetians were still jealous of extinguished power; and, while their

* The college of *Savj* consisted of sixteen persons; and it possessed the *initiative* in all public measures that required the assent of the senate. For no single senator, much less any noble of the great council, could propose any thing for debate. The signiory had the same privilege. Thus the virtual powers even of the senate were far more limited than they appear at first sight; and no possibility remained of innovation in the fundamental principles of the constitution.

CHAP. constitution was yet immature, the great council planned new
 III. methods of restricting their chief magistrate. An oath was taken
 PART II. by the doge on his election, so comprehensive as to embrace every
 ITALY. possible check upon undue influence. He was bound not to
 correspond with foreign states, or to open their letters, except in the
 presence of the signiory; to acquire no property beyond the
 Venetian dominions, and to resign what he might already possess;
 to interpose, directly or indirectly, in no judicial process, and not
 to permit any citizen to use tokens of subjection in saluting him.
 As a further security, they devised a remarkably complicated mode
 of supplying the vacancy of his office. Election by open suffrage
 is always liable to tumult or corruption; nor does the method of
 secret ballot, while it prevents the one, afford in practice any
 adequate security against the other. Election by lot incurs the risk
 of placing incapable persons in situations of arduous trust. The
 Venetian scheme was intended to combine the two modes without
 their evils; by leaving the absolute choice of their doge to electors
 taken by lot. It was presumed, that, among a competent number
 of persons, though taken promiscuously, good sense and right
 principles would gain such an ascendancy, as to prevent any
 flagrantly improper nomination, if undue influence could be ex-
 cluded. For this purpose, the ballot was rendered exceedingly
 complicated, that no possible ingenuity or stratagem might ascertain
 the electoral body before the last moment. A single lottery, if
 fairly conducted, is certainly sufficient for this end. At Venice, as
 many balls as there were members of the great council present, were
 placed in an urn. Thirty of these were gilt. The holders of gilt
 balls were reduced by a second ballot to nine. The nine elected
 forty whom lot reduced to twelve. The twelve chose twenty-five
 by separate nomination.* The twenty-five were reduced by lot to
 nine; and each of the nine chose five. These forty-five were

* Amelot de la Houssaye asserts this; but, according to Contareni, the method was by ballot.

reduced to eleven as before; the eleven elected forty-one, who were the ultimate voters for a doge. This intricacy appears useless and consequently absurd; but the original principle of a Venetian election (for something of the same kind was applied to all their councils and magistrates) may not always be unworthy of imitation. In one of our best modern statutes, that for regulating the trials of contested elections, we have seen this mixture of chance and selection very happily introduced.

An hereditary prince could never have remained quiet in such trammels as were imposed upon the doge of Venice. But early prejudice accustoms men to consider restraint, even upon themselves, as advantageous; and the limitations of ducal power appeared to every Venetian as fundamental as the great laws of the English constitution do to ourselves. Many doges of Venice, especially in the middle ages, were considerable men; but they were content with the functions assigned to them, which, if they could avoid the tantalizing comparison of sovereign princes, were enough for the ambition of republicans. For life the chief magistrates of their country, her noble citizens for ever, they might thank her in their own name for what she gave, and in that of their posterity for what she withheld. Once only, a doge of Venice was tempted to betray the freedom of the republic. Marin Falieri, a man far advanced in life, engaged, from some petty resentment, in a wild intrigue to overturn the government. The conspiracy was soon discovered, and the doge avowed his guilt. An aristocracy so firm and so severe did not hesitate to order his execution in the ducal palace.

For some years after what was called the closing of the great council, or the law of 1296, which excluded all but the families actually in possession, a good deal of discontent shewed itself among the commonalty. Many ancient as well as opulent citizens were stripped of their privileges by this innovation. In a city which owed its whole lustre to commerce, the merchant was held unworthy of a share in the government; an anomaly, without, I believe, a parallel in the history of the world. By the modern law of Venice,

CHAP. at least, a nobleman could not engage in trade without derogating
 III. from his rank; but I am not aware whether so absurd a restriction
 PART II. existed in the fourteenth and fifteenth centuries.* Several commo-
 ITALY. tions took place about the beginning of the former age, with the
 object of restoring a more popular regimen. Upon the suppression
 of the last, in 1310, the aristocracy sacrificed their own individual
 freedom along with that of the people, to the preservation of an
 imaginary privilege. They established the famous council of ten,
 that most remarkable part of the Venetian constitution. This
 council, it should be observed, consisted in fact of seventeen; com-
 prizing the signiory, or the doge and his six counsellors, as well as
 the ten properly so called. The council of ten had by usage, if not
 by right, a controuling and dictatorial power over the senate, and
 other magistrates; rescinding their decisions, and treating separately
 with foreign princes. Their vast influence strengthened the exe-
 cutive government, of which they formed a part, and gave a vigour
 to its movements, which the jealousy of the councils would possibly
 have impeded. But they are chiefly known as an arbitrary and
 inquisitorial tribunal, the standing tyranny of Venice. Excluding
 the old council of forty, a regular court of criminal judicature,
 not only from the investigation of treasonable charges, but of several
 other crimes of magnitude, they inquired, they judged, they
 punished, according to what they called reason of state. The
 public eye never penetrated the mystery of their proceedings; the
 accused was sometimes not heard, never confronted with witnesses;
 the condemnation was secret as the inquiry, the punishment undi-
 vulged like both.† The terrible and odious machinery of a police,

* I do not find this peculiarity observed by Jannotti and Contareni, the oldest writers on the Venetian government. It is noticed by Amelot de la Houssaye, who tells us also, that the nobility evaded the law by secret partnership with the privileged merchants, or cittadini, who formed a separate class at Venice. This was the custom in modern times. But I have never understood

the principle, or common sense, of such a restriction, especially combined with that other fundamental law, which disqualified a Venetian nobleman from possessing a landed estate on the terra firma of the republic. The latter, however, did not extend, as I have been informed, to Dalmatia or the Ionian islands.

† Illum etiam morem observant, ne reum,

the insidious spy, the stipendiary informer, unknown to the carelessness of feudal governments, found their natural soil in the republic of Venice. Tumultuous assemblies were scarcely possible in so peculiar a city; and private conspiracies never failed to be detected by the vigilance of the council of ten. Compared with the Tuscan republics, the tranquillity of Venice is truly striking. The names of Guelf and Ghibelin hardly raised any emotion in her streets, though the government was considered in the first part of the fourteenth century as rather inclined towards the latter party.* But how much more honourable are the wildest excesses of faction, than the stillness and moral degradation of servitude!

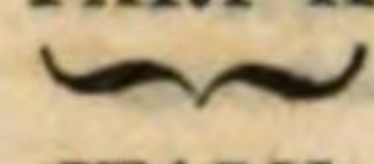
It was a very common theme with political writers, till about the beginning of the last century, when Venice fell almost into oblivion, to descant upon the wisdom of this government. And indeed if the preservation of ancient institutions be, as some appear to consider it, not a means, but an end, and an end for which the rights of man and laws of God may at any time be set aside, we must acknowledge that it was a wisely constructed system. Formed to compress the two opposite forces, from which resistance might be expected, it kept both the doge and the people in perfect subordination. Even the coalition of an executive magistrate with the multitude, so fatal to most aristocracies, never endangered that of Venice. It is most remarkable, that a part of the constitution, which destroyed every man's security, and incurred general hatred, was still maintained by a sense of its necessity. The council of ten, annually renewed, might annually have been annihilated. The great council had only to withhold their suffrages from the new candidates, and the tyranny expired of itself. This was several times attempted, (I speak now of more modern ages,) but the nobles, though detesting the council of

cum de eo iudicium laturo sunt, in collegium admittant, neque cognitorem, aut oratorem quempiam, qui ejus causam agat. Contareni de Rep. Venet.

* Villani several times speaks of the Venetians as regular Ghibelins. l. ix. c. 2. l. x.

c. 89. &c. But this is put much too strongly; though their government may have had a slight bias towards that faction, they were in reality neutral, and far enough removed from any domestic feuds upon that score.

CHAP. III. PART II. ITALY. ten, never steadily persevered in refusing to re-elect it. It was, in fact, become essential to Venice. So great were the vices of her constitution, that she could not endure their remedies. If the council of ten had been abolished at any time since the fifteenth century, if the removal of that jealous despotism had given scope to the corruption of a poor and debased aristocracy, to the licence of a people unworthy of freedom, the republic would have soon lost her territorial possessions, if not her own independence. If indeed it be true, as reported, that during the last hundred years this formidable tribunal had sensibly relaxed its vigilance, if the Venetian government had become less tyrannical through sloth, or decline of national spirit, our conjecture will have acquired the confirmation of experience. Experience has recently shown, that a worse calamity than domestic tyranny might befall the queen of the Adriatic. In the place of St. Mark, among the monuments of extinguished greatness, a traveller may regret to think, that an insolent German soldiery has replaced even the senators of Venice. Her ancient liberty, her bright and romantic career of glory in countries so dear to the imagination, her magnanimous defence in the war of Chioza, a few thinly scattered names of illustrious men, will rise upon his mind, and mingle with his indignation at the treachery which robbed her of her independence. But if he has learned the true attributes of wisdom in civil policy, he will not easily prostitute that word to a constitution formed without reference to property or to population, that vested sovereign power partly in a body of impoverished nobles, partly in an overruling despotism; or to a practical system of government that made vice the ally of tyranny, and sought impunity for its own assassinations by encouraging dissoluteness of private life. Perhaps too the wisdom so often imputed to the senate in its foreign policy has been greatly exaggerated. The balance of power established in Europe, and above all in Italy, maintained for the two last centuries states of small intrinsic resources, without any efforts of their own. In the ultimate crisis, at least, of Venetian liberty, that solemn mockery of statesmanship was exhibited to contempt; too blind to

avert danger, too cowardly to withstand it, the most ancient govern- CHAP.
ment of Europe made not an instant's resistance; the peasants of Un- III.
derwald died upon their mountains; the nobles of Venice clung only PART II.
to their lives.*  ITALY.

Until almost the middle of the fourteenth century, Venice had been Territorial
content without any territorial possessions in Italy; unless we reckon acquisitions
a very narrow strip of sea coast, bordering on her lagunes, called the of Venice.
Dogato. Neutral in the great contests between the church and the
empire, between the free cities and their sovereign, she was respected
by both parties, while neither ventured to claim her as an ally. But
the rapid progress of Mastino della Scala, lord of Verona, with some
particular injuries, led the senate to form a league with Florence
against him. Villani mentions it as a singular honour for his
country to have become the confederate of the Venetians, "who, for
their great excellence and power, had never allied themselves with
any state or prince, except at their ancient conquest of Constanti-
nople, and Romania."† The result of this combination was to annex
the district of Treviso to the Venetian dominions. But they made no
further conquests in that age. On the contrary they lost Treviso in
the unfortunate war of Chioza, and did not regain it till 1389. Nor
did they seriously attempt to withstand the progress of Gian Gale-
azzo Visconti; who, after overthrowing the family of Scala, stretched
almost to the Adriatic, and altogether subverted for a time the
balance of power in Lombardy.

But upon the death of this prince in 1404, a remarkable crisis took
place in that country. He left two sons, Giovanni Maria, and State of
Filippo Maria, both young, and under the care of a mother, who Lombardy
was little fitted for her situation. Through her misconduct, and the at the be-
selfish ambition of some military leaders, who had commanded Gian ginning of
Galeazzo's mercenaries, that extensive dominion was soon broken the fifteenth
century.

* See in the Edinburgh Review, vol. xii.
p. 379. an account of a book, which is, per-
haps, little known, though interesting to the
history of our own age: a collection of do-
cuments, illustrating the fall of the republic

of Venice. The article is well written, and,
I presume, contains a faithful account of the
work; the author of which, Signor Barzoni,
is respected as a patriotic writer in Italy.

† L. xi. c. 49.

CHAP. into fragments. Bergamo, Como, Lodi, Cremona, and other cities
 III. revolted, submitting themselves in general to the families of their
 PART II. former princes, the earlier race of usurpers, who had for nearly a
 ITALY. century been crushed by the Visconti. A Guelf faction revived, after the name had long been proscribed in Lombardy. Francesco da Carrara, lord of Padua, availed himself of this revolution to get possession of Verona, and seemed likely to unite all the cities beyond the Adige. No family was so odious to the Venetians as that of Carrara. Though they had seemed indifferent to the more real danger in Gian Galeazzo's life-time, they took up arms against this inferior enemy. Both Padua and Verona were reduced, and the duke of Milan ceding Vicenza, the republic of Venice came suddenly into the possession of an extensive territory. Francesco da Carrara, who had surrendered in his capital, was put to death in prison at Venice; a cruelty perfectly characteristic of that government, and which would not have been avowedly perpetrated, even in the fifteenth century, by any other state in Europe.

Notwithstanding the deranged condition of the Milanese, no further attempts were made by the senate of Venice for twenty years. They had not yet acquired that decided love of war and conquest, which soon began to influence them against all the rules of their ancient policy. There were still left some wary statesmen of the old school, to check ambitious designs. Sanuto has preserved an interesting account of the wealth and commerce of Venice in those days. This is thrown into the mouth of the doge Mocenigo, whom he represents as dissuading his country, with his dying words, from undertaking a war against Milan. "Through peace our city has every year," he said, "ten millions of ducats employed as mercantile capital in different parts of the world; the annual profit of our traders upon this sum amounts to four millions. Our housing is valued at 7,000,000 ducats; its annual rental at 500,000. Three thousand merchant ships carry on our trade; forty-three galleys, and three hundred smaller vessels, manned by 19,000 sailors, secure our naval power. Our mint has coined 1,000,000 ducats within the year."

From the Milanese dominions alone we draw 1,000,000 ducats in coin, and the value of 900,000 more in cloths; our profit upon this traffic may be reckoned at 600,000 ducats. Proceeding as you have done to acquire this wealth, you will become masters of all the gold in Christendom; but war, and especially unjust war, will lead infallibly to ruin. Already you have spent 900,000 ducats in the acquisition of Verona and Padua; yet the expense of protecting these places absorbs all the revenue which they yield. You have many among you, men of probity and experience; chuse one of these to succeed me; but beware of Francesco Foscari. If he is doge, you will soon have war, and war will bring poverty and loss of honour.* Mocenigo died, and Foscari became doge: the prophecies of the former were neglected; and it cannot wholly be affirmed that they were fulfilled. Yet Venice is described, by a writer thirty years later, as somewhat impaired in opulence by her long warfare with the dukes of Milan.

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The latter had recovered a great part of their dominions as rapidly as they had lost them. Giovanni Maria, the elder brother, a monster of guilt even among the Visconti, having been assassinated, Filippo Maria assumed the government of Milan and Pavia, almost his only possessions. But though weak and unwarlike himself, he had the good fortune to employ Carmagnola, one of the greatest generals of that military age. Most of the revolted cities were tired of their new masters, and their inclinations conspiring with Carmagnola's eminent talents and activity, the house of Visconti re-assumed its former ascendancy from the Sessia to the Adige. Its fortunes might have been still more prosperous, if Filippo Maria had not rashly as well as ungratefully offended Carmagnola. That great captain retired to Venice, and inflamed a disposition towards war which the Florentines and duke of Savoy had already excited. The Venetians had previously gained some important advantages in

Wars of
Milan and
Venice.

* Sanuto, *Vite di Duchi di Venezia*, in harangue is very long in Sanuto: I have endeavoured to preserve the substance. *Script. Rer. Ital.* t. xxii. p. 958. Mocenigo's

CHAP. another quarter, by reducing the country of Friuli, with part of
 III. Istria, which had for many centuries depended on the temporal au-
 PART II. thority of a neighbouring prelate, the patriarch of Aquileia. They
 ITALY. entered into this new alliance. No undertaking of the republic had
 been more successful. Carmagnola led on their armies, and in about
 1426 two years, Venice acquired Brescia and Bergamo, and extended
 her boundary to the river Adda, which she was destined never to
 pass.

Change in
the military
system.

Such conquests could only be made by a city so peculiarly mari-
 time as Venice, through the help of mercenary troops. But in
 employing them she merely conformed to a fashion, which states to
 whom it was less indispensable had long since established. A great
 revolution had taken place in the system of military service, through
 most parts of Europe, but especially in Italy. During the twelfth
 and thirteenth centuries, whether the Italian cities were engaged in
 their contest with the emperors, or in less arduous and general hos-
 tilities among each other, they seem to have poured out almost their
 whole population, as an armed and loosely organized militia. A
 single city, with its adjacent district, sometimes brought twenty or
 thirty thousand men into the field. Every man, according to the
 trade he practised, or quarter of the city wherein he dwelt, knew his
 own banner, and the captain he was to obey.* In battle, the car-
 roccio formed one common rallying point, the pivot of every move-
 ment. This was a chariot, or rather waggon, painted with vermilion,
 and bearing the city standard elevated upon it. That of Milan re-
 quired four pair of oxen to drag it forward.† To defend this sacred
 emblem of his country, which Muratori compares to the ark of the
 covenant among the Jews, was the constant object, that, giving a sort
 of concentration and uniformity to the army, supplied in some de-

* Muratori, *Antiq. Ital. Diss.* 26. De-
 nina, *Rivoluzioni d'Italia*, l. xii. c. 4.

† The carroccio was invented by Eribert,
 a celebrated archbishop of Milan, about
 1039. *Annali di Murat. Antiq. Ital. Diss.*
 26. The carroccio of Milan was taken by

Frederic II., in 1237, and sent to Rome.
 Parma and Cremona lost their carroccios to
 each other, and exchanged them some years
 afterwards with great exultation. In the
 fourteenth century this custom had gone
 into disuse. *Id. ibid.* Denina, l. xii. c. 4.

gree the want of more regular tactics. This militia was of course principally composed of infantry. At the famous battle of the Arbia, in 1260, the Guelf Florentines had thirty thousand foot, and three thousand horse;* and the usual proportion was five, six, or ten, to one. Gentlemen, however, were always mounted; and the superiority of a heavy cavalry must have been prodigiously great over an undisciplined and ill-armed populace. In the thirteenth and following centuries, armies seem to have been considered as formidable, nearly in proportion to their number of men at arms, or lancers. A charge of cavalry was irresistible; battles were continually won by inferior numbers, and vast slaughter was made among the fugitives.†

As the comparative inefficiency of foot soldiers became evident, a greater proportion of cavalry was employed, and armies, though better equipped and disciplined, were less numerous. This we find in the early part of the fourteenth century. The main point for a state at war was to obtain a sufficient force of men at arms. As few Italian cities could muster a large body of cavalry from their own population, the obvious resource was to hire mercenary troops. This had been practised in some instances much earlier. The city of Genoa took the count of Savoy into pay with two hundred horse in 1225.‡ Florence retained five hundred French lances in 1282.§ But it became much more general in the fourteenth century, chiefly after the expedition of the emperor Henry VII., in 1310. Many German soldiers of fortune, remaining in Italy upon this occasion, engaged in the service of Milan, Florence, or some other state. The subse-

Employ-
ment of fo-
reign troops.

* Villani, l. vi. c. 79.

† Sismondi, t. iii. p. 263. &c. has some judicious observations on this subject.

‡ Muratori, Dissert. 26.

§ Ammirato, Ist. Fiorent. p. 159. the same was done in 1297. p. 200. A *lance*, in the technical language of those ages, included the lighter cavalry attached to the man at arms, as well as himself. In France, the full complement of a lance (lance four-

nie) was five or six horses; thus the 1,500 lances, who composed the original companies of ordonnance raised by Charles VII., amounted to nine thousand cavalry. But in Italy, the number was smaller. We read frequently of *barbuti*, which are defined, *lanze de due cavalli*. Corio, p. 437. Lances of three horses were introduced about the middle of the fourteenth century. Id. p. 466.

CHAP. III. PART II. ITALY. quent expeditions of Louis of Bavaria in 1326, and of John king of Bohemia, in 1331, brought a fresh accession of adventurers from the same country. Others again came from France, and some from Hungary. All preferred to continue in the richest country and finest climate of Europe, where their services were anxiously solicited, and abundantly repaid. An unfortunate prejudice in favour of strangers prevailed among the Italians of that age. They ceded to them, one knows not why, certainly without having been vanquished, the palm of military skill and valour. The word Transalpine (*Oltramontani*) is frequently applied to hired cavalry by the two Villani, as an epithet of excellence.

The experience of every fresh campaign now told more and more against the ordinary militia. It has been usual for modern writers to lament the degeneracy of martial spirit among the Italians. But the contest was too unequal between an absolutely invulnerable body of cuirassiers, and an infantry of peasants or citizens. The bravest men have little appetite for receiving wounds and death, without the hope of inflicting any in return. The parochial militia of France had proved equally unserviceable; though as the life of a French peasant was of much less account in the eyes of his government than that of an Italian citizen, they were still led forward like sheep to the slaughter against the disciplined forces of Edward III. The cavalry had about this time laid aside the hauberk, or coat of mail, their ancient distinction from the unprotected populace; which, though incapable of being cut through by the sabre, afforded no defence against the pointed sword introduced in the thirteenth century,* nor repelled the impulse of a lance, or the contusing blow of a battle-axe. Plate-armour was substituted in its place; and the man at arms, cased in entire steel, the several pieces firmly rivetted, and proof against every stroke, his charger protected on the face, chest, and shoulders, or, as it was called, barded with plates of steel,

* Muratori, ad ann. 1266.

fought with a security of success, against enemies inferior perhaps only in these adventitious sources of courage to himself.*

Nor was the new system of conducting hostilities less inconvenient to the citizens than the tactics of a battle. Instead of rapid and predatory invasions, terminated instantly by a single action, and not extending more than a few days' march from the soldier's home, the more skillful combinations usual in the fourteenth century frequently protracted an indecisive contest for a whole summer.† As wealth and civilization made evident the advantages of agricultural and mercantile industry, this loss of productive labour could no longer be endured. Azzo Visconti, who died in 1339, dispensed with the personal service of his Milanese subjects. "Another of his laws," says Galvaneo Fiamma, "was, that the people should not go to war, but remain at home for their own business. For they had hitherto been kept with much danger and expense every year, and especially in time of harvest and vintage, when princes are wont to go to war, in besieging cities, and incurred numberless losses, and chiefly on account of the long time that they were so detained."‡ This law of Azzo Visconti, taken separately, might be ascribed to the usual policy of an absolute government. But we find a similar innovation not long afterwards at Florence. In the war carried on by that republic against Giovanni Visconti in 1351, the younger Villani informs us that "the useless and mischievous personal service of the inhabitants of the district was commuted into a money payment."§ This change indeed was necessarily accompanied by a vast increase of taxation. The Italian states, republics as well as principalities,

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Citizens ex-
cused from
service.

* The earliest plate-armour, engraved in Montfaucon's *Monumens de la Monarchie Française*, t. ii. is of the reign of Philip the Long, about 1315; but it does not appear generally till that of Philip of Valois, or even later. Before the complete harness of steel was adopted, plated caps were sometimes worn on the knees and elbows, and even greaves on the legs. This is represented in a statue of Charles I. king of

Naples, who died in 1285. Possibly the statue may not be quite so ancient. Montfaucon, *passim*. Daniel, *Hist. de la Milice Française*, p. 395.

† This tedious warfare *à la Fabius* is called by Villani, *guerra guereggiata*, l. viii. c. 49. at least I can annex no other meaning to the expression.

‡ Muratori, *Antiquit. Ital. Dissert.* 26.

§ Matt. Villani, p. 135.

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ITALY.

Companies
of adven-
ture.

levied very heavy contributions. Mastino della Scala had a revenue of 700,000 florins, more, says John Villani, than the king of any European country, except France, possesses.* Yet this arose from only nine cities of Lombardy. Considered with reference to economy, almost any taxes must be a cheap commutation for personal service. But economy may be regarded too exclusively, and can never counterbalance that degradation of a national character, which proceeds from intrusting the public defence to foreigners.

It could hardly be expected, that stipendiary troops, chiefly composed of Germans, would conduct themselves without insolence and contempt of the effeminacy which courted their services. Indifferent to the cause they supported, the highest pay and the richest plunder were their constant motives. As Italy was generally the theatre of war in some of her numerous states, a soldier of fortune, with his lance and charger for his inheritance, passed from one service to another without regret, and without discredit. But if peace happened to be pretty universal, he might be thrown out of his only occupation, and reduced to a very inferior condition, in a country of which he was not a native. It naturally occurred to men of their feelings, that if money and honour could only be had while they retained their arms, it was their own fault if they ever relinquished them. Upon this principle they first acted in 1343, when the republic of Pisa disbanded a large body of German cavalry which had been employed in a war with Florence.† A partizan, whom the Italians call the Duke Guarnieri, engaged these dissatisfied mercenaries to remain united under his command. His plan was to

* L. xi. c. 45. I cannot imagine why M. Sismondi asserts, t. iv. p. 432. that the lords of cities in Lombardy did not venture to augment the taxes imposed while they had been free. Complaints of heavy taxation are certainly often made against the Visconti, and other tyrants in the fourteenth century.

† Sismondi, t. v. p. 380. The dangerous aspect which these German mercenaries might assume, had appeared four years be-

fore, when Lodrisio, one of the Visconti, having quarrelled with the lord of Milan, led a large body of troops who had just been disbanded against the city. After some desperate battles, the mercenaries were defeated, and Lodrisio taken. t. v. p. 278. In this instance, however, they acted for another; Guarnieri was the first who taught them to preserve the impartiality of general robbers.

levy contributions on all countries which he entered with his company, without aiming at any conquests. No Italian army, he well knew, could be raised to oppose him; and he trusted that other mercenaries would not be ready to fight against men who had devised a scheme so advantageous to the profession. This was the first of the companies of adventure, which continued for many years to be the scourge and disgrace of Italy. Guarnieri, after some time, withdrew his troops, saturated with plunder, into Germany; but he served in the invasion of Naples by Louis, king of Hungary, in 1348, and, forming a new company, ravaged the ecclesiastical state. A still more formidable band of disciplined robbers appeared in 1353, under the command of Fra Moriale, and afterwards of Conrad Lando. This was denominated the Great Company, and consisted of several thousand regular troops, besides a multitude of half-armed ruffians, who assisted as spies, pioneers, and plunderers. The rich cities of Tuscany and Romagna paid large sums, that the great company, which was perpetually in motion, might not march through their territory. Florence alone magnanimously resolved not to offer this ignominious tribute. Upon two occasions, once in 1358, and still more conspicuously the next year, she refused either to give a passage to the company, or to redeem herself by money; and in each instance the German robbers were compelled to retire. At this time, they consisted of five thousand cuirassiers, and their whole body was not less than twenty thousand men; a terrible proof of the evils which an erroneous system had entailed upon Italy. Nor were they repulsed on this occasion by the actual exertions of Florence. The courage of that republic was in her counsels, not in her arms; the resistance made to Lando's demand was a burst of national feeling, and rather against the advice of the leading Florentines;* but the army employed was entirely composed of mercenary troops, and probably for the greater part of foreigners.

None of the foreign partizans, who entered into the service of

Sir John
Hawkwood

* Matt. Villani, p. 537.

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Italian states, acquired such renown in that career, as an Englishman, whom contemporary writers call Aucud or Agutus, but to whom we may restore his national appellation of Sir John Hawkwood. This very eminent man had served in the war of Edward III., and obtained his knighthood from that sovereign, though originally, if we may trust common fame, bred to the trade of a taylor. After the peace of Bretigni, France was ravaged by the disbanded troops, whose devastations Edward was accused, perhaps unjustly, of secretly instigating. A large body of these, under the name of the White Company, passed into the service of the Marquis of Montferrat. They were some time afterwards employed by the Pisans against Florence; and during this latter war, Hawkwood appears as their commander. For thirty years he was continually engaged in the service of the Visconti, of the Pope, or of the Florentines, to whom he devoted himself for the latter part of his life, with more fidelity and steadiness than he had shewn in his first campaigns. The republic testified her gratitude by a public funeral, and by a monument which, I believe, is still extant.

Want of
military
science be-
fore his
time.

The name of Sir John Hawkwood is worthy to be remembered, as that of the first distinguished commander who had appeared in Europe, since the destruction of the Roman empire. It would be absurd to suppose that any of the constituent elements of military genius which nature furnishes to energetic characters were wanting to the leaders of a barbarian or feudal army; untroubled perspicacity in confusion, firm decision, rapid execution, providence against attack, fertility of resource and stratagem. These are in quality as much required from the chief of an Indian tribe, as from the accomplished commander. But we do not find them in any instance so consummated by habitual skill, as to challenge the name of generalship. No one at least occurs to me, previously to the middle of the fourteenth century, to whom history has unequivocally assigned that character. It is very rarely that we find even the order of battle specially noticed. The monks, indeed, our only chroniclers, are poor judges of martial excellence; yet, as war is the

main topic of all annals, we could hardly remain ignorant of any distinguished skill in its operations. This neglect of military science certainly did not proceed from any predilection for the arts of peace. It arose out of the general manners of society, and out of the nature and composition of armies in the middle ages. The inferior spirit of feudal tenants, and the emulous equality of chivalry, were alike hostile to that gradation of rank, that punctual observance of irksome duties, that prompt obedience to a supreme command, through which a single soul is infused into the active mass, and the rays of individual merit converge to the head of the general.

In the fourteenth century, we begin to perceive something of a more scientific character in military proceedings, and historians for the first time discover that success does not entirely depend upon intrepidity and physical prowess. The victory of Muhldorf over the Austrian princes, in 1322, that decided a civil war in the empire, is ascribed to the ability of the Bavarian commander.* Many distinguished officers were formed in the school of Edward III. Yet their excellencies were perhaps rather those of active partizans than of experienced generals. Their successes are still due rather to daring enthusiasm, than to wary and calculating combination. Like inexpert chess-players, they surprize us by happy sallies against rule, or display their talents in rescuing themselves from the consequences of their own mistakes. Thus the admirable arrangements of the Black Prince at Poitiers hardly redeem the temerity which placed him in a situation where the egregious folly of his adversary alone could have permitted him to triumph. Hawkwood therefore appears to me the first real general of modern times; the earliest master, however imperfect, in the science of Turenne and Wellington. Every contemporary Italian historian speaks with admiration of his skilful tactics in battle, his stratagems, his well-conducted retreats. Praise of this description, as I have observed,

* Struvius, Corpus Hist. German. p. 585. called by a contemporary writer, *clarus militari scientiâ vir*. Schwepperman, the Bavarian general, is

CHAP. is hardly bestowed, certainly not so continually, on any former captain.

III.

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School of
Italian ge-
nerals.

Hawkwood was not only the greatest, but the last of the foreign condottieri, or captains of mercenary bands. While he was yet living, a new military school had been formed in Italy, which not only superseded, but eclipsed all the strangers. This important reform was ascribed to Alberic di Barbiano, lord of some petty territories near Bologna. He formed a company altogether of Italians about the year 1379. It is not to be supposed, that natives of Italy had before been absolutely excluded from service. We find several Italians, such as the Malatesta family, lords of Rimini, and the Rossi of Parma, commanding the armies of Florence much earlier. But this was the first trading company, if I may borrow the analogy, the first regular body of Italian mercenaries, attached only to their commander, without any consideration of party, like the Germans and English of Lando and Hawkwood. Alberic de Barbiano, though himself no doubt a man of military talents, is principally distinguished by the school of great generals, which the company of St. George under his command produced; and which may be deduced, by regular succession, to the sixteenth century. The first in order of time, and immediate contemporaries of Barbiano, were Jacopo Verme, Facino Cane, and Ottobon Terzo. Among an intelligent and educated people, little inclined to servile imitation, the military art made great progress. The most eminent condottieri being divided, in general, between belligerents, each of them had his genius excited and kept in tension by that of a rival in glory. Every resource of science as well as experience, every improvement in tactical arrangements and the use of arms, were required to obtain an advantage over such equal enemies. In the first year of the fifteenth century, the Italians brought their newly acquired superiority to a test. The emperor Robert, in alliance with Florence, invaded Gian Galeazzo's dominions with a considerable army. From old reputation, which so frequently survives the intrinsic qualities upon which it was founded, an impression appears

to have been excited in Italy, that the native troops were still unequal to meet the charge of German cuirassiers. The duke of Milan gave orders to his general, Jacopo Verme, to avoid a combat. But that able leader was aware of a great relative change in the two armies. The Germans had neglected to improve their discipline; their arms were less easily wielded, their horses less obedient to the bit. A single skirmish was enough to open their eyes; they found themselves decidedly inferior; and having engaged in the war with the expectation of easy success, were readily disheartened.* This victory, or rather this decisive proof that victory might be achieved, set Italy at rest for almost a century from any apprehensions on the side of her ancient masters.

Whatever evils might be derived, and they were not trifling, from the employment of foreign or native mercenaries, it was impossible to discontinue the system without general consent; and too many states found their own advantage in it for such an agreement. The condottieri were indeed all notorious for contempt of engagements. Their rapacity was equal to their bad faith. Besides an enormous pay, for every private cuirassier received much more in value than a subaltern officer at present, they exacted gratifications for every success.† But every thing was endured by ambitious governments, who wanted their aid. Florence and Venice were the two states, which owed most to the companies of adventure. The one loved war without its perils; the other could never have obtained an inch of territory with a population of sailors. But they were both almost inexhaustibly rich by commercial industry; and, as the surest paymasters, were best served by those they employed. The Visconti might perhaps have extended their conquests over Lombardy with

* Sismondi, t. vii. p. 439.

† Paga doppia, e mese compiuto, of which we frequently read, sometimes granted improvidently, and more often demanded unreasonably. The first speaks for itself; the second was the reckoning a month's service as completed when it was begun, in calcu-

lating their pay. Matt. Villani, p. 62. Sismondi, t. v. p. 412.

Gian Galeazzo Visconti promised constant half-pay to the condottieri, whom he disbanded in 1396. This perhaps is the first instance of half-pay. Sismondi, t. vii. p. 379.

CHAP. the militia of Milan; but without a Jacopo del Verme or a Carmagnola, the banner of St. Mark would never have floated at Verona and Bergamo.

III.
PART II.

ITALY.

Defensive
arms of that
age.

These Italian armies of the fifteenth century have been remarked for one striking peculiarity. War has never been conducted at so little personal hazard to the soldier. Combats frequently occur in the annals of that age, wherein success, though warmly contested, cost very few lives even to the vanquished.* This innocence of blood, which some historians turn into ridicule, was no doubt owing in a great degree to the rapacity of the companies of adventure, who, in expectation of enriching themselves by the ransom of prisoners, were anxious to save their lives. Much of the humanity of modern warfare was originally due to this motive. But it was rendered more practicable by the nature of their arms. For once, and for once only in the history of mankind, the art of defence had outstripped that of destruction. In a charge of lancers many fell, unhorsed by the shock, and might be suffocated or bruised to death by the pressure of their own armour; but the lance's point could not penetrate the breast-plate, the sword fell harmless upon the helmet, the conqueror, in the first impulse of passion, could not assail any vital part of a prostrate but not exposed enemy. Still

* Instances of this are very frequent. Thus at the action of Zagonara, in 1423, but three persons, according to Machiavel, lost their lives, and those by suffocation in the mud. Ist. Fiorent. l. iv. At that of Molinella in 1467, he says, that no one was killed. l. vii. Ammirato reproves him for this, as all the authors of the time represent it to have been sanguinary, (t. ii. p. 102.) and insinuates that Machiavel ridicules the inoffensiveness of those armies more than it deserves, schernendo, come egli suol far, quella milizia. Certainly some few battles of the fifteenth century were not only obstinately contested, but attended with considerable loss. Sismondi, t. x. p. 126. 137. But, in general, the slaughter must appear very trifling. Ammirato himself says, that in an

action between the Neapolitan and papal troops in 1486, which lasted all day, not only no one was killed, but it is not recorded that any one was wounded. Roscoe's Lorenzo de' Medici, vol. ii. p. 37. Guicciardini's general testimony to the character of these combats is unequivocal. He speaks of the battle of Fornova between the confederates of Lombardy and the army of Charles VIII. returning from Naples in 1495, as very remarkable on account of the slaughter, which amounted on the Italian side to 3000 men: perchè fù la prima, che da lunghissimo tempo in quà si combattesse con uccisione e con sangue in Italia, perchè innanzi à questa morivano pochissimi uomini in un fatto d'arme. l. ii. p. 175.

less was to be dreaded from the archers or cross-bowmen who composed a large part of the infantry. The bow indeed, as drawn by an English foot-soldier, was the most formidable of arms before the invention of gunpowder. That ancient weapon, though not perhaps common among the Northern nations, nor for several centuries after their settlement, was occasionally in use before the crusades. William employed archers in the battle of Hastings.* Intercourse with the east, its natural soil, during the twelfth and thirteenth ages, rendered the bow better known. But the Europeans improved on the eastern method of confining its use to cavalry. By employing infantry as archers, they gained increased size, more steady position, and surer aim for the bow. Much, however, depended on the strength and skill of the archer. It was a peculiarly English weapon, and none of the other principal nations adopted it so generally, or so successfully. The cross-bow, which brought the strong and weak to a level, was more in favour upon the continent. This instrument is said by some writers to have been introduced after the first crusade, in the reign of Louis the Fat.† But, if we may trust William of Poitou, it was employed, as well as the long bow, at the battle of Hastings. Several of the popes prohibited it as a treacherous weapon; and the restriction was so far regarded that, in the time of Philip Augustus, its use is said to have been unknown in France.‡ By degrees it became more general; and cross-bowmen were considered as a very necessary part of a well-organized army. But both the arrow and the quarrel glanced away from plate-armour, such as it became in the fifteenth

* *Pedites in fronte locavit, sagittis armatos et balistis, item pedites in ordine secundo firmiores et loricated, ultimo turmas equitum.* Gul. Pictaviensis, (in Du Chesne,) p. 201. Several archers are represented in the tapestry of Bayeux, a well-known and very remarkable picture-history of the conquest, executed, as seems now to be ascertained, by the order of the empress Matilda, daughter of Henry I. *Archæologia*, vol. xvii. p. 85.

A full account and two series of representations of this tapestry will be found in Montfaucon, *Monumens de la Mon. Franc.* t. i. and t. ii.; the latter set of engravings are much more exact than the former.

† *Le Grand, Vie privée des Français*, t. i. p. 349.

‡ *Du Cange, v. Balista.* Muratori, *Diss.* 26. t. i. p. 462. (Ital.)

CHAP. century, impervious in every point, except when the visor was raised
 III. from the face, or some part of the body accidentally exposed.
 PART II. The horse indeed was less completely protected.

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Many disadvantages attended the security against wounds for which this armour had been devised. The enormous weight exhausted the force and crippled the limbs. It rendered the heat of a southern climate insupportable. In some circumstances it increased the danger of death, as in the passage of a river or morass. It was impossible to compel an enemy to fight, because the least entrenchment or natural obstacle could stop such unwieldy assailants. The troops might be kept in constant alarm at night, and either compelled to sleep under arms, or run the risk of being surprized before they could rivet their plates of steel.* Neither the Italians, however, nor the Transalpines, would surrender a mode of defence, which they ought to have deemed inglorious. But in order to obviate some of its military inconveniences, as well as to give a concentration in attack, which lancers impetuously charging in a single line, according to the practice at least of France in the middle ages, did not preserve, it became usual for the cavalry to dismount, and leaving their horses at some distance, to combat on foot with the lance. This practice, which must have been singularly embarrassing with the plate-armour of the fifteenth century, was introduced before it became so ponderous. It is mentioned by historians of the twelfth century, both as a German and an English custom.† We find it in the wars of Edward III. Hawkwood, the disciple of that school, introduced it into Italy.‡ And it was practised by the English in their second wars with France, especially at the battles of Crevant and Verneuil.§

Custom of
cavalry dis-
mounting.

* Sismondi, t. ix. p. 158.

† The emperor Conrad's cavalry in the second crusade are said by William of Tyre to have dismounted on one occasion, and fought on foot, *de equis descendentes, et facti pedites; sicut mos est Teutonicis* in summis necessitatibus bellica tractare negotia. l. xvii. c. 4. And the same was done

by the English in their engagement with the Scotch near North Allerton, commonly called the battle of the Standard, in 1138. Twysden, Decem Script. p. 342.

‡ Sismondi, t. vi. p. 429. Azarius, in Script. Rer. Ital. t. xvi. Matt. Villani.

§ Monstrelet, t. ii. fol. 7. 14. 76. Villaret, t. xvii. p. 89. It was a Burgundian

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Invention of
gunpowder.

Meanwhile a discovery accidentally made, perhaps in some remote age and distant region, and whose importance was but slowly perceived by Europe, had prepared the way not only for a change in her military system, but for political effects still more extensive. If we consider gunpowder as an instrument of human destruction, incalculably more powerful than any that skill had devised or accident presented before, acquiring, as experience shews us, a more sanguinary dominion in every succeeding age, and borrowing all the progressive resources of science and civilization for the extermination of mankind, we shall be appalled at the future prospects of the species, and feel perhaps in no other instance so much difficulty in reconciling the mysterious dispensation with the benevolent order of Providence. As the great security for established governments, the surest preservation against popular tumult, it assumes a more equivocal character, depending upon the solution of a doubtful problem, whether the sum of general happiness has lost more in the last three centuries through arbitrary power, than it has gained through regular police and suppression of disorder.

There seems little reason to doubt, that gunpowder was introduced through the means of the Saracens into Europe. Its use in engines of war, though they may seem to have been rather like our fire-works than artillery, is mentioned by an Arabic writer in the Escorial collection about the year 1249.* It was known not long afterwards to

as well as English fashion. Entre les Bourguignons, says Comines, lors estoient les plus honorez ceux que descendoient avec les archers. l. i. c. 3.

* Casiri, Bibl. Arab. Hispan. t. ii. p. 7. thus renders the original description of certain missiles used by the Moors. *Serpunt, susurrantque scorpiones circumligati ac pulvere nitrato incensi, unde explosi fulgurant ac incendunt. Jam videre erat manganum excussum veluti nubem per aera extendi ac tonitrus instar horrendum edere fragorem, ignemque undequaque vomens, omnia dirumpere, incendere, in cineres redigere.* The Arabic passage is at the bottom of the page;

and one would be glad to know whether *pulvis nitratus* is a fair translation. But I think there can on the whole be no doubt that gunpowder is meant. Another Arabian writer seems to describe the use of cannon in the years 1312 and 1323. Id. *ibid.* And the chronicle of Alfonso XI. king of Castile, distinctly mentions them at the siege of Algeziras in 1342. But before this, they were sufficiently known in France. Gunpowder and cannon are both mentioned in registers of accounts under 1338. (Du Cange, *Bombarda.*) and in another document of 1345. *Hist. du Languedoc*, t. iv. p. 204. But the strongest evidence is a passage of Petrarch,

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our philosopher Roger Bacon, though he concealed in some degree the secret of its composition. In the first part of the fourteenth century, cannon or rather mortars were invented, and the applicability of gunpowder to purposes of war was understood. Edward III. employed some pieces of artillery with considerable effect at Crecy.* But its use was still not very frequent; a circumstance which will surprise us less, when we consider the unscientific construction of artillery; the slowness with which it could be loaded; its stone balls of uncertain aim and imperfect force, being commonly fired at a considerable elevation; and especially the difficulty of removing it from place to place during an action. In sieges, and in naval engagements, as for example in the war of Chioza, it was more frequently employed.† Gradually, however, the new artifice of evil gained ground. The French made the principal improvements. They cast their cannon smaller, placed them on lighter carriages, and used balls of iron.‡ They invented portable arms for a single soldier, which, though clumsy in comparison with their present state, gave an augury of a prodigious revolution in the military art. John, duke of Burgundy, in 1411, had 4000 hand-cannons, as they were called, in his army.§ They are found, under different names, and modifications of form, for which I refer to professed writers on tactics, in most of the wars that historians of the fifteenth century record, but less in Italy, than beyond the Alps. The Milanese, in 1449, are said

written before 1344, and quoted in Muratori; *Antich. Ital. Dissert.* 26. p. 456. where he speaks of the art, nuper rara, nunc communis.

* G. Villani, l. xii. c. 67. Gibbon has thrown out a sort of objection to the certainty of this fact, on account of Froissart's silence. But the positive testimony of Villani, who died within two years afterwards, and had manifestly obtained much information as to the great events passing in France, cannot be rejected. He ascribes a material effect to the cannon of Edward, colpi delle bombarde, which I suspect, from his strong expressions, had not been employed before, except against stone walls. It seemed, he

says, as if God thundered con grande uccisione di genti, e sfondamento di cavalli.

† Gattaro, *Ist. Padovana*, in *Script. Rer. Ital.* t. xvii. p. 360. Several proofs of the employment of artillery in French sieges during the reign of Charles V. occur in Villaret. See the word *Artillerie* in the index.

Gian Galeazzo had, according to Corio, thirty-four pieces of cannon, small and great, in the Milanese army about 1397.

‡ Guicciardini, l. i. p. 75. has a remarkable passage on the superiority of the French over the Italian artillery, in consequence of these improvements.

§ Villaret, t. xiii. p. 176. 310.

to have armed their militia with 20,000 muskets, which struck terror into the old generals.* But these muskets, supported on a rest, and charged with great delay, did less execution than our sanguinary science would require; and uncombined with the admirable invention of the bayonet, could not in any degree resist a charge of cavalry. The pike had a greater tendency to subvert the military system of the middle ages, and to demonstrate the efficiency of disciplined infantry. Two free nations had already discomfited by the help of such infantry, those arrogant knights on whom the fate of battles had depended; the Bohemians, instructed in the art of war by their great master, John Zisca; and the Swiss, who after winning their independence inch by inch from the house of Austria, had lately established their renown by a splendid victory over Charles of Burgundy. Louis XI. took a body of mercenaries from the United Cantons into pay. Maximilian had recourse to the same assistance.† And though the importance of infantry was not perhaps decidedly established till the Milanese wars of Louis XII. and Francis I. in the sixteenth century, yet the last years of the middle ages, according to our division, indicated the commencement of that military revolution in the general employment of pikemen and musqueteers.

Soon after the beginning of the fifteenth century, to return from this digression, two illustrious captains, educated under Alberic di Barbiano, turned upon themselves the eyes of Italy. These were Braccio di Montone, a noble Perugian, and Sforza Attendolo, originally a peasant in the village of Cotignuola. Nearly equal in reputation, unless perhaps Braccio may be reckoned the more consummate general, they were divided by a long rivalry, which descended to the next generation, and involved all the distinguished leaders of

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Rivalry of
Sforza and
Braccio.

* Sismondi, t. ix. p. 341. He says that it required a quarter of an hour to charge and fire a musket. I must confess that I very much doubt the fact of so many muskets having been collected. In 1432, that arm was seen for the first time in Tuscany. Muratori, Dissert. 26. p. 457.

† See Guicciardini's character of the Swiss troops, p. 192. The French, he says, had no native infantry; *il regno di Francia era debolissimo di fanteria propria*, the nobility monopolizing all warlike occupations. Ibid.

CHAP. Italy. The distractions of Naples, and the anarchy of the ecclesiastical state, gave scope not only to their military, but political ambition. Sforza was invested with extensive fiefs in the kingdom of Naples, and with the office of Great Constable. Braccio aimed at independent acquisitions, and formed a sort of principality around Perugia. This, however, was entirely dissipated at his death. When Sforza and Braccio were no more, their respective parties were headed by the son of the former, Francesco Sforza, and by Nicolas Piccinino, who for more than twenty years fought, with few exceptions, under opposite banners. Piccinino was constantly in the service of Milan. Sforza, whose political talents fully equalled his military skill, never lost sight of the splendid prospects that opened to his ambition. From Eugenius IV. he obtained the March of Ancona, as a fief of the Roman see. Thus rendered more independent than the ordinary condottieri, he mingled as a sovereign prince in the politics of Italy. He was generally in alliance with Venice and Florence, throwing his weight into their scale to preserve the balance of power against Milan and Naples. But his ultimate designs rested upon Milan. Filippo Maria, duke of that city, the last of his family, had only a natural daughter, whose hand he sometimes offered, and sometimes withheld from Sforza. Even after he had consented to their union, his suspicious temper was incapable of admitting such a son-in-law into confidence, and he joined in a confederacy with the pope and king of Naples, to strip Sforza of the March. At the death of Filippo Maria in 1447, that general had nothing left but his glory, and a very disputable claim to the Milanese succession. This, however, was set aside by the citizens, who revived their republican government. A republic in that part of Lombardy might, with the help of Venice and Florence, have withstood any domestic or foreign usurpation. But Venice was hostile, and Florence indifferent. Sforza became the general of this new state, aware that such would be the probable means of becoming its master. No politician of that age scrupled any breach of faith for his interests. Nothing, says Machiavel, was thought shameful, but

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Francesco
Sforza.

He acquires
the duchy
of Milan.

to fail. Sforza with his army deserted to the Venetians; and the republic of Milan, being both incapable of defending itself, and distracted by civil dissensions, soon fell a prey to his ambition. In 1450, he was proclaimed duke, rather by right of election or of conquest, than in virtue of his marriage with Bianca, whose sex, as well as illegitimacy, seemed to preclude her from inheriting.

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I have not alluded for some time to the domestic history of a kingdom, which bore a considerable part during the fourteenth and fifteenth centuries in the general combinations of Italian policy, not wishing to interrupt the reader's attention by too frequent transitions.

Affairs of
Naples.

We must return again to a more remote age in order to take up the history of Naples. Charles of Anjou, after the deaths of Manfred and Conradin had left him without a competitor, might be ranked in the first class of European sovereigns. Master of Provence and Naples, and at the head of the Guelf faction in Italy, he had already prepared a formidable attack on the Greek empire, when a memorable revolution in Sicily brought humiliation on his latter years.

1272

John of Procida, a Neapolitan whose patrimony had been confiscated for his adherence to the party of Manfred, retained, during long years of exile, an implacable resentment against the house of Anjou. From the dominions of Peter III. king of Aragon, who had bestowed estates upon him in Valencia, he kept his eye continually fixed on Naples and Sicily. The former held out no favourable prospects; the Ghibelin party had been entirely subdued, and the principal barons were of French extraction or inclinations. But the island was in a very different state. Unused to any strong government, it was now treated as a conquered country. A large body of French soldiers garrisoned the fortified towns; and the systematic oppression was aggravated by those insults upon women, which have always been characteristic of that people, and are most intolerable to an Italian temperament. John of Procida travelling in disguise through the island animated the barons with a hope of deliverance. In like disguise, he repaired to the pope, Nicolas III., who was jealous of the new Neapolitan dynasty, and obtained his sanction to the pro-

Rebellion of
Sicily from
Charles of
Anjou.

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Sicilian Vespers.

1283

War in consequence between France and Aragon.

jected insurrection; to the court of Constantinople, from which he readily obtained money; and to the king of Aragon, who employed that money in fitting out an armament, that hovered upon the coast of Africa, under pretext of attacking the Moors. It is, however, difficult at this time to distinguish the effects of preconcerted conspiracy from those of casual resentment. Before the intrigues so skilfully conducted had taken effect, yet after they were ripe for development, an outrage committed upon a lady at Palermo during a procession on the vigil of Easter, provoked the people to that terrible massacre of all the French in their island, which has obtained the name of the Sicilian Vespers. Unpremeditated as such an ebullition of popular fury must appear, it fell in, by the happiest coincidence, with the previous conspiracy. The king of Aragon's fleet was at hand; the Sicilians soon called in his assistance; he sailed to Palermo, and accepted the crown. John of Procida is a remarkable witness to a truth which the pride of governments will seldom permit them to acknowledge; that an individual, obscure and apparently insignificant, may sometimes, by perseverance and energy, shake the foundations of established states; while the perfect concealment of his intrigues proves also, against a popular maxim, that a political secret may be preserved by a number of persons during a considerable length of time.*

The long war that ensued upon this revolution involved or interested the greater part of civilized Europe. Philip III. of France took part with his uncle, and the king of Aragon was compelled to

* Giannone, though he has well described the schemes of John of Procida, yet, as is too often his custom, or rather that of Costanzo, whom he implicitly follows, drops or slides over leading facts; and thus, omitting entirely, or misrepresenting the circumstances of the Sicilian Vespers, treats the whole insurrection as the result of a deliberate conspiracy. On the other hand, Nicolas Specialis, a contemporary writer, in the seventh volume of Muratori's collection, represents the Sicilian Vespers as proceeding

entirely from the casual outrage in the streets of Palermo. The thought of calling in Peter, he asserts, did not occur to the Sicilians till Charles had actually commenced the siege of Messina. But this is equally removed from the truth. Gibbon has made more errors than are usual with so accurate an historian in his account of this revolution, such as calling Constance, the queen of Peter, *sister*, instead of *daughter* of Manfred. A good narrative of the Sicilian Vespers may be found in Velly's history of France, t. vi.

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fight for Sicily within his native dominions. This indeed was the more vulnerable point of attack. Upon the sea he was lord of the ascendant. His Catalans, the most intrepid of Mediterranean sailors, were led to victory by a Calabrian refugee, Roger di Loria, the most illustrious and successful admiral whom Europe produced till the age of Blake and de Ruyter. In one of Loria's battles, the eldest son of the king of Naples was made prisoner, and the first years of his own reign were spent in confinement. But notwithstanding these advantages, it was found impracticable for Aragon to contend against the arms of France, and latterly of Castile, sustained by the rolling thunders of the Vatican. Peter III. had bequeathed Sicily to his second son James; Alfonso, the eldest, king of Aragon, could not fairly be expected to ruin his inheritance for his brother's cause; nor were the barons of that free country disposed to carry on a war without national objects. He made peace accordingly in 1295, and engaged to withdraw all his subjects from the Sicilian service. Upon his own death, which followed very soon, James succeeded to the kingdom of Aragon, and ratified the renunciation of Sicily. But the natives of that island had received too deeply the spirit of independence to be thus assigned over by the letter of a treaty. After solemnly abjuring, by their ambassadors, their allegiance to the king of Aragon, they placed the crown upon the head of his brother Frederic. They maintained the war against Charles II. of Naples, against James of Aragon, their former king, who had bound himself to enforce their submission, and even against the great Roger di Loria, who, upon some discontent with Frederic, deserted their banner, and entered into the Neapolitan service. Peace was at length made in 1300, upon condition that Frederic should retain during his life the kingdom, which was afterwards to revert to the crown of Naples; a condition, not likely to be fulfilled.

Upon the death of Charles II. king of Naples, in 1305, a question arose as to the succession. His eldest son, Charles Martel, had been called by maternal inheritance to the throne of Hungary, and had left at his decease a son Carobert, the reigning sovereign of that

CHAP. country. According to the laws of representative succession, which
 III. were at this time tolerably settled in private inheritance, the crown
 PART II. of Naples ought to have regularly devolved upon that prince. But
 ITALY. it was contested by his uncle Robert, the eldest living son of Charles
 Robert king of Naples. II.; and the cause was pleaded by civilians before Pope Clement V.
 at Avignon, the feudal superior of the Neapolitan kingdom. Reasons
 of public utility, rather than of legal analogy, seem to have prevailed
 in the decision which was made in favour of Robert.* The course
 of his reign evinced the wisdom of this determination. Robert, a
 wise and active, though not personally a martial prince, maintained
 the ascendancy of the Guelf faction, and the papal influence con-
 nected with it, against the formidable combination of Ghibelin
 usurpers in Lombardy, and the two emperors Henry VII. and Louis
 of Bavaria. No male issue survived Robert, whose crown descended
 to his grand-daughter Joanna. She had been espoused, while a
 child, to her cousin Andrew, son of Carobert king of Hungary, who
 was educated with her in the court of Naples. Auspiciously con-
 trived as this union might seem to silence a subsisting claim upon the
 kingdom, it proved eventually the source of civil war and calamity
 for an hundred and fifty years. Andrew's manners were barbarous,
 more worthy of his native country, than of that polished court wherein
 he had been bred. He gave himself up to the society of Hungarians,
 who taught him to believe that a matrimonial crown and derivative
 royalty were derogatory to a prince who claimed by a paramount
 hereditary right. In fact, he was pressing the court of Avignon to
 permit his own coronation, which would have placed in a very
 hazardous condition the rights of his queen, with whom he was living
 on ill terms, when one night, he was seized, strangled, and thrown
 out of a window. Public rumour, in the absence of notorious proof,
 imputed the guilt of this mysterious assassination to Joanna. Whether
 historians are authorized to assume her participation in it so con-

Joanna.
 Murder of
 her husband
 Andrew.

1343

* Giannone, l. xxii. Summonte, t. ii. p. 370. Some of the civilians of that age, however, approved the decision.

fidently as they have generally done, may perhaps be doubted; though I cannot venture positively to rescind their sentence. The circumstances of Andrew's death were undoubtedly pregnant with strong suspicion.* Louis, king of Hungary, his brother, a just and stern prince, invaded Naples, partly as an avenger, partly as a conqueror. The queen, and her second husband, Louis of Tarento, fled to Provence, where her acquittal, after a solemn, if not an impartial, investigation, was pronounced by Clement VI. Louis meanwhile found it more difficult to retain than to acquire the kingdom of Naples; his own dominions required his presence; and Joanna soon recovered her crown. She reigned for thirty years more without the attack of any enemy, but not intermeddling, like her progenitors, in the general concerns of Italy. Childless by four husbands, the succession of Joanna began to excite ambitious speculations. Of all the male descendants of Charles I. none remained but the king of Hungary, and Charles duke of Durazzo, who had married the queen's niece, and was regarded by her as the presumptive heir to the crown. But, offended by her marriage with Otho of Brunswick, he procured the assistance of an Hungarian army to invade the kingdom, and, getting the queen into his power, took possession of the throne. In

* The Chronicle of Dominic di Gravina (Script. Rer. Ital. t. xii.) seems to be our best testimony for the circumstances connected with Andrew's death; and after reading his narrative more than once, I find myself undecided as to this perplexed and mysterious story. Gravina's opinion, it should be observed, is extremely hostile to the queen. Nevertheless, there are not wanting presumptions, that Charles duke of Durazzo, who had married her sister, was concerned in the murder of Andrew, for which in fact he was afterwards put to death by the king of Hungary. But, if the duke of Durazzo was guilty, it is unlikely that Joanna should be so too; because she was on very bad terms with him, and indeed the chief proofs against her are founded on the investigation which Durazzo himself professed to institute. Confessions obtained through torture are as little

credible in history as they ought to be in judicature; even if we could be positively sure, which is not the case in this instance, that such confessions were ever made. However, I do not pretend to acquit Joanna, but merely to notice the uncertainty that rests over her story, on account of the positiveness with which all historians, except those of Naples, and the Abbé de Sade, whose vindication (Vie de Pétrarque, t. ii. notes.) does her more harm than good, have assumed the murder of Andrew to have been her own act, as if she had ordered his execution in open day. Those who believe in the innocence of Mary queen of Scots, may, besides the obvious resemblance in their stories, which has been often noticed, find a more particular parallel between the duke of Durazzo and the earl of Murray.

CHAP. this enterprize he was seconded by Urban VI., against whom Joanna
 III. had unfortunately declared in the great schism of the church. She
 PART II. was smothered with a pillow in prison by the order of Charles. The
 ITALY. name of Joan of Naples has suffered by the lax repetition of calum-
 1378 nies. Whatever share she may have had in her husband's death,
 and certainly under circumstances of extenuation, her subsequent
 life was not open to any flagrant reproach. The charge of dissolute
 manners, so frequently made, is not warranted by any specific
 proof, or contemporary testimony.

House of
Anjou.

In the extremity of Joanna's distress, she had sought assistance
 from a quarter too remote to afford it in time for her relief. She
 adopted Louis duke of Anjou, eldest uncle of the young king of
 France, Charles VI., as her heir in the kingdom of Naples and county
 of Provence. This bequest took effect without difficulty in the latter
 country. Naples was entirely in the possession of Charles of Du-
 razzo. Louis, however, entered Italy with a very large army, con-
 sisting at least of 30,000 cavalry, and, according to some writers,
 more than double that number.* He was joined by many Neapo-
 litan barons, attached to the late queen. But by a fate not unusual
 in so imperfect a state of military science, this armament produced
 no adequate effect, and mouldered away through disease and want of
 provisions. Louis himself dying not long afterwards, the government
 of Charles III. appeared secure, and he was tempted to accept an
 offer of the crown of Hungary. This enterprize, equally unjust and
 injudicious, terminated in his assassination. Ladislaus, his son, a
 child ten years old, succeeded to the throne of Naples under the
 guardianship of his mother Margaret; whose exactions of money
 producing discontent, the party which had supported the late duke
 of Anjou became powerful enough to call in his son. Louis II., as
 he was called, reigned at Naples, and possessed most part of the
 kingdom for several years; the young king Ladislaus, who retained
 some of the northern provinces, fixing his residence at Gaeta. If

* Muratori. Summonte. Costanzo.

Louis had prosecuted the war with activity, it seems probable that he would have subdued his adversary. But his character was not very energetic; and Ladislaus, as he advanced to manhood, displaying much superior qualities, gained ground by degrees, till the Angevin barons, perceiving the turn of the tide, came over to his banner, and he recovered his whole dominions.

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The kingdom of Naples, at the close of the fourteenth century, was still altogether a feudal government. This had been introduced by the first Norman kings, and the system had rather been strengthened than impaired under the Angevin line. The princes of the blood, who were at one time numerous, obtained extensive domains by way of apanage. The principality of Tarento was a large portion of the kingdom.* The rest was occupied by some great families, whose strength, as well as pride, was shewn in the number of men at arms whom they could muster under their banner. At the coronation of Louis II. in 1390, the Sanseverini appeared with 1800 cavalry completely equipped.† This illustrious house, which had filled all the high offices of state, and changed kings at its pleasure, was crushed by Ladislaus, whose bold and unrelenting spirit well fitted him to bruise the heads of the aristocratic hydra. After thoroughly establishing his government at home, this ambitious monarch directed his powerful resources towards foreign conquests. The ecclesiastical territories had never been secure from rebellion or usurpation; but legitimate sovereigns had hitherto respected the patrimony of the head of the church. It was reserved for Ladislaus, a feudal vassal of the Holy See, to seize upon Rome itself as his spoil. For several years, while the disordered state of the church, in consequence of the schism and the means taken to extinguish it, gave him an opportunity, the king of Naples occupied great part of the papal territo-

* It comprehended the provinces now called Terra d'Otranto, and Terra di Bari; besides part of those adjoining. Summonte, *Istoria di Napoli*, t. iii. p. 537. Orsini, prince of Tarento, who died in 1463, had 4000 troops in arms, and the value of 1,000,000 florins in moveables. Sismondi, t. x. p. 151. † Summonte, t. iii. p. 517. Giannone, l. xxiv. c. 4.

CHAP. rics. He was disposed to have carried his arms farther north, and
 III. attacked the republic of Florence, if not the states of Lombardy,
 PART II. when his death relieved Italy from the danger of this new tyranny.

ITALY.
 Joanna II. An elder sister, Joanna II., reigned at Naples after Ladislaus. Under this queen, destitute of courage and understanding, and the slave of appetites which her age rendered doubly disgraceful, the kingdom relapsed into that state of anarchy from which its late sovereign had rescued it. I shall only refer the reader to more enlarged histories, for the first years of Joanna's reign. In 1421 the two most powerful individuals were Sforza Attendolo, great constable, and Ser Gianni Caraccioli, the queen's minion, who governed the palace with unlimited sway. Sforza, aware that the favourite was contriving his ruin, and remembering the prison in which he had lain more than once since the accession of Joanna, determined to anticipate his enemies, by calling in a pretender to the crown, another Louis of Anjou, third in descent of that unsuccessful dynasty. The Angevin party, though proscribed and oppressed, was not extinct; and the populace of Naples, in particular, had always been on that side. Caraccioli's influence and the queen's dishonourable weakness rendered the nobility disaffected. Louis III. therefore had no remote prospect of success. But Caraccioli was more prudent than favourites, selected from such motives, have usually proved. Joanna was old and childless; the reversion to her dominions was a valuable object to any prince in Europe. None was so competent to assist her, or so likely to be influenced by the hope of succession, as Alfonso king of Aragon and Sicily. That island, after the reign of its deliverer Frederic I., had unfortunately devolved upon weak or infant princes. One great family, the Chiaramonti, had possessed itself of half Sicily; not by a feudal title, as in other kingdoms, but as a kind of counter-sovereignty, in opposition to the crown, though affecting rather to bear arms against the advisers of their kings, than against themselves. The marriage of Maria, queen of Sicily, with Martin, son of the king of Aragon, put an end to the national independence of her country. Dying without issue, she left the crown

Adoption of
 Alfonso of
 Aragon.

Affairs of
 Sicily.

to her husband. This was consonant perhaps to the received law of some European kingdoms. But, upon the death of Martin in 1409, his father, also named Martin, king of Aragon, took possession as heir to his son, without any election by the Sicilian parliament. The Chiaramonti had been destroyed by the younger Martin, and no party remained to make opposition. Thus was Sicily united to the crown of Aragon. Alfonso, who now enjoyed those two crowns, gladly embraced the proposals of the queen of Naples. They were founded indeed on the most substantial basis, mutual interest. She adopted Alfonso as her son and successor, while he bound himself to employ his forces in delivering a kingdom that was to become his own. Louis of Anjou, though acknowledged in several provinces, was chiefly to depend upon the army of Sforza; and an army of Italian mercenaries could only be kept by means which he was not able to apply. The king of Aragon therefore had far the better prospects in the war, when one of the many revolutions of this reign defeated his immediate expectations. Whether it was that Alfonso's noble and affable nature afforded a contrast which Joanna was afraid of exhibiting to the people, or that he had really formed a plan to anticipate his succession to the throne, she became more and more distrustful of her adopted son; till, an open rupture having taken place, she entered into a treaty with her hereditary competitor, Louis of Anjou, and, revoking the adoption of Alfonso, substituted the French prince in his room. The king of Aragon was disappointed by this unforeseen stroke, which, uniting the Angevin faction with that of the reigning family, made it impracticable for him to maintain his ground for any length of time in the kingdom. Joanna reigned for more than ten years without experiencing any inquietude from the pacific spirit of Louis, who, content with his reversionary hopes, lived as a sort of exile in Calabria.* Upon his death, the

CHAP.

III.

PART II.

ITALY.

Its revoca-
tion in fa-
vour of
Louis of
Anjou.

* Joanna's great favourite, Caraccioli, fell a victim some time before his mistress's death to an intrigue of the palace; the duchess of Sessia, a new favourite, having prevailed on the feeble old queen to permit him to be assassinated. About this time Alfonso had every reason to hope for the renewal of the settlement in his favour.

CHAP.

III.

PART II.

ITALY.

1433

Alfonso
king of
Naples.

queen, who did not long survive him, settled the kingdom on his brother Regnier. The Neapolitans were generally disposed to execute this bequest. But Regnier was unluckily at that time a prisoner to the duke of Burgundy; and though his wife maintained the cause with great spirit, it was difficult for her, or even for himself, to contend against the king of Aragon, who immediately laid claim to the kingdom. After a contest of several years, Regnier having experienced the treacherous and selfish abandonment of his friends, yielded the game to his adversary; and Alfonso founded the Aragonese line of sovereigns at Naples, deriving pretensions more splendid than just from Manfred, from the house of Swabia, and from Roger Guiscard.*

In the first year of Alfonso's Neapolitan war, he was defeated and taken prisoner by a fleet of the Genoese, who, as constant enemies of the Catalans in all the naval warfare of the Mediterranean, had willingly lent their aid to the Angevin party. Genoa was at this time subject to Filippo Maria, duke of Milan; and her royal captive was transmitted to his court. But here the brilliant graces of Alfonso's character won over his conqueror, who had no reason to consider the war as his own concern. The king persuaded him on the contrary, that a strict alliance with an Aragonese dynasty in

Caraccioli had himself opened a negociation with the king of Aragon; and after his death, the duchess of Sessia embarked in the same cause. Joan even revoked secretly the adoption of the duke of Anjou. This circumstance might appear doubtful; but the historian, to whom I refer, has published the act of revocation itself, which bears date April 11th, 1433. Zurita (*Anales de Aragon*, t. iv. p. 217.) admits that no other writer, either contemporary or subsequent, has mentioned any part of the transaction, which must have been kept very secret; but his authority is so respectable, that I thought it worth notice, however uninteresting these remote intrigues may appear to most readers. Joanna soon changed her mind again, and took no overt steps in favour of Alfonso:

* According to a treaty between Frederic III., king of Sicily, and Joanna I. of Naples, in 1363, the former monarch was to assume the title of king of Trinacria, leaving the original style to the Neapolitan line. But, neither he, nor his successors in the island, ever complied with this condition, or entitled themselves otherwise, than kings of Sicily *ultra* Pharum, in contradistinction to the other kingdom, which they denominated, Sicily *citra* Pharum. Alfonso of Aragon, when he united both these, was the first who took the title, King of the two Sicilies, which his successors have retained ever since. Giannone, t. iii. p. 234.

Naples against the pretensions of any French claimant would be the true policy and best security of Milan. That city, which he had entered as a prisoner, he left as a friend and ally. From this time Filippo Maria Visconti and Alfonso were firmly united in their Italian politics, and formed one weight of the balance, which the republics of Venice and Florence kept in equipoise. After the succession of Sforza to the duchy of Milan, the same alliance was generally preserved. Sforza had still more powerful reasons than his predecessor for excluding the French from Italy, his own title being contested by the duke of Orleans, who derived a claim from his mother Valentine, a daughter of Gian Galeazzo Visconti. But the two republics were no longer disposed towards war. Florence had spent a great deal without any advantage in her contest with Filippo Maria;* and the new duke of Milan had been the constant personal friend of Cosmo de' Medici, who altogether influenced that republic. At Venice indeed he had been regarded with very different sentiments; the senate had prolonged their war against Milan with redoubled animosity after his elevation, deeming him a not less ambitious and more formidable neighbour than the Visconti. But they were deceived in the character of Sforza. Conscious that he had reached an eminence beyond his early hopes, he had no care but to secure for his family the possession of Milan, without disturbing the balance of Lombardy. No one better knew than Sforza the faithless temper and destructive politics of the condottieri; whose interest was placed in the oscillations of interminable war, and whose defection might shake the stability of any government. Without peace it was impossible to break that ruinous system, and accustom states to rely upon their natural resources. Venice had little reason to expect further conquests in Lombardy; and if her ambition had inspired the hope of them, she was summoned by a stronger call, that of self-preservation, to defend her numerous and

CHAP.
III.
PART II.
ITALY.

His connection with Milan.

Quadruple league of 1455.

* The war ending with the peace of republic of Florence 3,500,000 florins. Ferrara, in 1428, is said to have cost the Ammirato, p. 1043.

CHAP. dispersed possessions in the Levant, against the arms of Mahomet

III.
PART II.

~
ITALY.

II. All Italy indeed felt the peril that impended from that side; and these various motives occasioned a quadruple league in 1455, between the king of Naples, the duke of Milan, and the two republics, for the preservation of peace in Italy. One object of this alliance, and the prevailing object with Alfonso, was the implied guarantee of his succession in the kingdom of Naples to his illegitimate son, Ferdinand. He had no lawful issue; and there seemed no reason why an acquisition of his own valour should pass against his will to collateral heirs. The pope, as feudal superior of the kingdom, and the Neapolitan parliament, the sole competent tribunal, confirmed the inheritance of Ferdinand.* Whatever may be thought of the claims subsisting in the house of Anjou, there can be no question that the reigning family of Aragon were legitimately excluded from that throne, though force and treachery enabled them ultimately to obtain it.

Character of
Alfonso.

Alfonso, surnamed the Magnanimous, was by far the most accomplished sovereign whom the fifteenth century produced. The virtues of chivalry were combined in him with the patronage of letters; and with more than their patronage, a real enthusiasm for learning, seldom found in a king, and especially in one so active and ambitious.† This devotion to literature was, among the Italians of that age, almost as sure a passport to general admiration, as his more chivalrous perfections. Magnificence in architecture and the pageantry of a splendid court gave fresh lustre to his reign. The Neapolitans perceived with grateful pride, that he lived almost entirely among them, in preference to his patrimonial kingdom; and forgave the heavy taxes, which faults nearly allied to his virtues, profuseness and ambition, compelled him to impose.‡ But they

Ferdinand.

remarked a very different character in his son. Ferdinand was as

* Giannone, l. xxvi. c. 2.

† A story is told, true or false, that his delight in hearing Quintus Curtius read, without any other medicine, cured the king

of an illness. See other proofs of his love of letters in Tiraboschi, t. vi. p. 40.

‡ Giannone, l. xxvi.

dark and vindictive, as his father was affable and generous. The barons, who had many opportunities of ascertaining his disposition, began, immediately upon Alfonso's death, to cabal against his succession; turning their eyes first to the legitimate branch of the family, and, on finding that prospect not favourable, to John, titular duke of Calabria, son of Regnier of Anjou, who survived to protest against the revolution that had dethroned him. John was easily prevailed upon to undertake an invasion of Naples. Notwithstanding the treaty concluded in 1455, Florence assisted him with money, and Venice at least with her wishes; but Sforza remained unshaken in that alliance with Ferdinand, which his clear-sighted policy discerned to be the best safeguard for his own dynasty. A large proportion of the Neapolitan nobility, including Orsini, prince of Tarento, the most powerful vassal of the crown, raised the banner of Anjou, which was sustained also by the youngest Piccinino, the last of the great condottieri, under whose command the veterans of former warfare rejoiced to serve. But John underwent the fate that had always attended his family in their long competition for that throne. After some brilliant successes, his want of resources, aggravated by the defection of Genoa, on whose ancient enmity to the house of Aragon he had relied, was perceived by the barons of his party, who, according to the practice of their ancestors, returned one by one to the allegiance of Ferdinand.

The peace of Italy was little disturbed, except by a few domestic revolutions, for several years after this Neapolitan war.* Even the most short-sighted politicians were sometimes withdrawn from selfish objects by the appalling progress of the Turks, though there was not energy enough in their councils to form any concerted plans for

CHAP.
III.
PART II.
ITALY.

State of
Italy in the
latter part
of the fif-
teenth cen-
tury.

* The following distribution of a tax of 458,000 florins, imposed, or rather proposed, in 1464, to defray the expense of a general war against the Turks, will give a notion of the relative wealth and resources of the Italian powers; but it is probable that the pope rated himself above his fair contingent.

He was to pay 100,000 florins; the Venetians 100,000; Ferdinand of Naples 80,000; the duke of Milan 70,000; Florence 50,000; the duke of Modena 20,000; Siena 15,000; the marquis of Mantua 10,000; Lucca 8,000; the marquis of Montferrat 5000. Sismondi, t. x. p. 229. A similar

- CHAP. III. PART II. ITALY.
- 1482 their own security. Venice maintained a long, but ultimately an unsuccessful contest with Mahomet II. for her maritime acquisitions in Greece and Albania; and it was not till after his death relieved Italy from its immediate terror that the ambitious republic endeavoured to extend its territories by encroaching on the house of Este. Nor had Milan shewn much disposition towards aggrandizement. Francesco Sforza had been succeeded, such is the condition of despotic governments, by his son Galeazzo, a tyrant more execrable than the worst of the Visconti. His extreme cruelties, and the insolence of a debauchery that gloried in the public dishonour of families, excited a few daring spirits to assassinate him. The Milanese profited by a tyrannicide, the perpetrators of which they had not courage or gratitude to protect. The regency of Bonne of Savoy, mother of the infant duke, Gian Galeazzo, deserved the praise of wisdom and moderation. But it was overthrown in a few years
- 1476 by Ludovico Sforza, surnamed the Moor, her husband's brother;
- 1480

assessment occurs, p. 307. where the proportions are not quite the same.

Perhaps it may be worth while to extract an estimate of the force of all Christian powers, written about 1454, from Sanuto's *Lives of the Doges of Venice*, p. 963. Some parts, however, appear very questionable. The king of France, it is said, can raise 30,000 men at arms; but for any foreign enterprize only 15,000. The king of England can do the same. These powers are exactly equal; otherwise one of the two would be destroyed. The king of Scotland, 'ch'è signore di grandi paesi e popoli con grande povertà,' can raise 10,000 men at arms: The king of Norway the same: The king of Spain (Castile) 30,000: The king of Portugal 6000: The duke of Savoy 8000: The duke of Milan 10,000. The republic of Venice can pay from her revenues 10,000: That of Florence 4000: The pope 6000. The emperor and empire can raise 60,000: The king of Hungary 80,000: (not men at arms, certainly).

The king of France in 1414, had 2,000,000 ducats of revenue; but now only half. The

king of England had then as much; now only 700,000. The king of Spain's revenue also is reduced by the wars from 3,000,000 to 800,000. The duke of Burgundy had 3,000,000; now 900,000. The duke of Milan has sunk from 1,000,000 to 500,000: Venice from 1,100,000, which she possessed in 1423, to 800,000: Florence from 400,000 to 200,000.

These statistical calculations are chiefly remarkable, as they manifest that comprehensive spirit of treating all the powers of Europe as parts of a common system, which began to actuate the Italians of the fifteenth century. Of these enlarged views of policy the writings of Æneas Sylvius afford an eminent instance. Besides the more general and insensible causes, the increase of navigation and revival of literature, this may be ascribed to the continual danger from the progress of the Ottoman arms, which led the politicians of that part of Europe most exposed to them, into more extensive views as to the resources and dispositions of Christian states.

who, while he proclaimed his nephew's majority, and affected to treat him as sovereign, hardly disguised in his conduct towards foreign states, that he had usurped for himself the sole direction of government.

CHAP.
III.
PART II.
~
ITALY.

The annals of one of the few surviving republics, that of Genoa, present to us, during the fifteenth as well as the preceding century, an unceasing series of revolutions, the shortest enumeration of which would occupy several pages. Torn by the factions of Adorni and Fregosi, equal and eternal rivals, to whom the old patrician families of Doria and Fieschi were content to become secondary, sometimes sinking from weariness of civil tumult into the grasp of Milan or France, and again, from impatience of foreign subjection, starting back from servitude to anarchy, the Genoa of those ages exhibits a singular contrast to the calm and regular aristocracy of the last three centuries. The latest revolution within the compass of this work was in 1488, when the duke of Milan became sovereign, an Adorno holding the office of doge as his lieutenant.

Affairs of
Genoa in
that age,

Florence, the most illustrious and fortunate of Italian republics, was now rapidly descending from her rank among free commonwealths, though surrounded with more than usual lustre in the eyes of Europe. We must take up the story of that city from the revolution of 1382, which restored the ancient Guelf aristocracy, or party of the Albizi, to the ascendancy of which a popular insurrection had stripped them. Fifty years elapsed during which this party retained the government in its own hands with few attempts at disturbance. Their principal adversaries had been exiled, according to the invariable and perhaps necessary custom of a republic; the populace and inferior artizans were dispirited by their ill success. Compared with the leaders of other factions, Maso degl' Albizi, and Nicola di Uzzano, who succeeded him in the management of his party, were attached to a constitutional liberty. Yet so difficult is it for any government, which does not rest on a broad basis of public consent, to avoid injustice, that they twice deemed it necessary to violate the ancient constitution. In 1393, after a

and of Flo-
rence,

CHAP. partial movement in behalf of the vanquished faction, they assem-
 III. bled a parliament, and established what was technically called at
 PART II. Florence, a Balia.* This was a temporary delegation of sovereignty
 ITALY. to a number, generally a considerable number, of citizens, who, during the period of their dictatorship, named the magistrates, instead of drawing them by lot, and banished suspected individuals. A precedent so dangerous was eventually fatal to themselves, and to the freedom of their country. Besides this temporary balia, the regular scrutinies periodically made in order to replenish the bags, out of which the names of all magistrates were drawn by lot, according to the constitution established in 1328, were so managed as to exclude all persons disaffected to the dominant faction. But, for still greater security, a council of two hundred was formed in 1411, out of those alone who had enjoyed some of the higher offices within the last thirty years, the [period of the aristocratical ascendancy, through which every proposition was to pass, before it could be submitted to the two legislative councils.† These precautions indicate a government conscious of public enmity; and if the Albizi had continued to sway the republic of Florence, their jealousy of the people would have suggested still more innovations, till the constitution had acquired, in legal form as well as substance, an absolutely aristocratical character.

Rise of the
Medici.

But, while crushing with deliberate severity their avowed adversaries, the ruling party had left one family, whose prudence gave no reasonable excuse for persecuting them; and whose popularity, as well as wealth, rendered the experiment hazardous. The Medici were among the most considerable of the new, or plebeian nobility. From the first years of the fourteenth century, their name not very unfrequently occurs in the domestic and military annals of Florence.‡

* Ammirato, p. 840.

† Ammirato, p. 961.

‡ The Medici are enumerated by Villani among the chiefs of the *Black* faction in 1304. l. viii. c. 71. One of that family

was beheaded by order of the duke of Athens in 1343. l. xii. c. 2. It is singular that Mr. Roscoe should refer their first appearance in history, as he seems to do, to the siege of Scarperia in 1351.

Salvestro de' Medici, who had been partially implicated in the democratical revolution that lasted from 1378 to 1382, escaped proscription on the revival of the Guelf party, though some of his family were afterwards banished. Throughout the long depression of the popular faction, the house of Medici was always regarded as their consolation and their hope. That house was now represented by Giovanni,* whose immense wealth, honourably acquired by commercial dealings, which had already rendered the name celebrated in Europe, was expended with liberality and magnificence. Of a mild temper, and averse to cabals, Giovanni de' Medici did not attempt to set up a party, and contented himself with repressing some fresh encroachments on the popular part of the constitution, which the Albizi were disposed to make.† They, in their turn, freely admitted him to that share in public councils, to which he was entitled by his eminence and virtues; a proof that the spirit of their administration was not illiberally exclusive. But, on the death of Giovanni, his son Cosmo de' Medici, inheriting his father's riches and estimation, with more talents and more ambition, thought it time to avail himself of the popularity belonging to his name. By extensive connexions with the most eminent men in Italy, especially with Sforza, he came to be considered as the first citizen of Florence. The oligarchy were more than ever unpopular. Their administration since 1382 had indeed been in general eminently successful; the acquisition of Pisa, and of other Tuscan cities, had aggrandized the republic, while from the port of Leghorn, her ships had begun to trade with Alexandria, and sometimes to contend with the Genoese.‡ But an unprosperous war with Lucca diminished

* Giovanni was not nearly related to Salvestro de' Medici. Their families are said *per lungo tratto allontanarsi*. Ammirato, p. 992. Nevertheless, his being drawn gonfalonier in 1421, created a great sensation in the city, and prepared the way for the subsequent revolution. Ibid. Machiavelli, l. iv.

† Machiavelli, *Ist. Fiorent.* l. iv.

‡ The Florentines sent their first merchant

ship to Alexandria in 1422, with great and anxious hopes. Prayers were ordered for the success of the republic by sea; and an embassy dispatched with presents to conciliate the sultan of Babylon, that is, of Grand Cairo. Ammirato, p. 997. Florence had never before been so wealthy. The circulating money was reckoned (perhaps extravagantly) at 4,000,000 florins. The manufactures

CHAP. a reputation which was never sustained by public affection. Cosmo
 III. and his friends aggravated the errors of the government, which
 PART II. having lost its wise and temperate leader, Nicola di Uzzano, had
 ITALY, fallen into the rasher hands of Rinaldo degl' Albizi. He incurred
 the blame of being the first aggressor in a struggle which had be-
 1433 come inevitable. Cosmo was arrested by command of a gonfalonier
 devoted to the Albizi, and condemned to banishment. But the
 oligarchy had done too much or too little. The city was full of his
 friends; the honours conferred upon him in his exile attested the
 sentiments of Italy. Next year he was recalled in triumph to
 Florence, and the Albizi were completely overthrown.

It is vain to expect, that a victorious faction will scruple to
 retaliate upon its enemies a still greater measure of injustice than it
 experienced at their hands. The vanquished have no rights in the
 eyes of a conqueror. The sword of returning exiles, flushed by
 victory, and incensed by suffering, falls successively upon their
 enemies, upon those whom they suspect of being enemies, upon
 those who may hereafter become such. The Albizi had in general
 respected the legal forms of their free republic, which good citizens,
 and perhaps themselves, might hope one day to see more effective.
 The Medici made all their government conducive to hereditary
 monarchy. A multitude of noble citizens were driven from their
 country; some were even put to death. A balia was appointed for
 ten years to exclude all the Albizi from magistracy, and, for the
 sake of this security to the ruling faction, to supersede the legitimate
 institutions of the republic. After the expiration of this period, the
 dictatorial power was renewed on pretence of fresh dangers, and
 this was repeated six times in twenty-one years.* In 1455, the con-
 stitutional mode of drawing magistrates was permitted to revive,

of silk and cloth of gold had never flourished
 so much. Architecture revived under Bru-
 nelleschi; literature under Leonard Aretin
 and Filelfo. p. 977. There is some truth in
 M. Sismondi's remark, that the Medici have
 derived part of their glory from their prede-

cessors in government, whom they subverted,
 and whom they have rendered obscure.
 But the Milanese war breaking out in 1423,
 tended a good deal to impoverish the city.

* Machiavelli, l. v. Ammirato.

against the wishes of some of the leading party. They had good reason to be jealous of a liberty, which was incompatible with their usurpation. The gonfaloniers, drawn at random from among respectable citizens, began to act with an independence to which the new oligarchy was little accustomed. Cosmo indeed, the acknowledged chief of the party, perceiving that some who had acted in subordination to him, were looking forward to the opportunity of becoming themselves its leaders, was not unwilling to throw upon them the unpopularity attached to an usurpation by which he had maintained his influence. Without his apparent participation, though not against his will, the free constitution was again suspended by a balia appointed for the nomination of magistrates; and the regular drawing of names by lot was never, I believe, restored.* Cosmo died at an advanced age in 1464. His son Piero de' Medici, though not deficient either in virtues or abilities, seemed too infirm in health for the administration of public affairs. At least, he could only be chosen by a sort of hereditary title, which the party above-mentioned, some from patriotic, more from selfish motives, were reluctant to admit. A strong opposition was raised to the family pretensions of the Medici. Like all Florentine factions, it trusted to violence; and the chance of arms was not in its favour. There is little to regret in the downfall of that oligarchy, which had all the disregard of popular rights, without the generous virtues of the Medici.† From this revolution in 1466, when some of the most considerable citizens were banished, we may date an acknowledged supremacy in the house of Medici, the chief of which nominated the regular magistrates, and drew to himself the whole conduct of the republic.

The two sons of Piero, Lorenzo and Julian, especially the former, though young at their father's death, assumed, by the request of

Lorenzo de'
Medici.
1469

* Ammirato, t. ii. p. 82—87.

† Id. p. 93. Roscoe's Lorenzo de' Medici, ch. 2. Machiavelli. Sismondi. The

two latter are perpetual references in this part of history, where no other is made.

CHAP. their friends, the reins of government.* It was impossible that,
 III. among a people who had so many recollections to attach to the
 PART II. name of liberty, among so many citizens whom their ancient consti-
 ITALY. tution invited to public trust, the controul of a single family should
 excite no dissatisfaction; and perhaps their want of any positive
 authority heightened the appearance of usurpation in their influence.
 But, if the people's wish to resign their freedom gives a title to
 accept the government of our country, the Medici were no usurpers.
 That family never lost the affections of the populace. The cry of
 Palle, Palle (their armorial distinction) would at any time rouse the
 Florentines to defend the chosen patrons of the republic. If their
 substantial influence could before be questioned, the conspiracy of
 the Pazzi, wherein Julian perished, excited an enthusiasm for the
 surviving brother, that never ceased during his life. Nor was this
 anything unnatural, or any severe reproach to Florence. All
 around, in Lombardy and Romagna, the lamp of liberty had long
 since been extinguished in blood. The freedom of Siena and
 Genoa was dearly purchased by revolutionary proscriptions; that of
 Venice was only a name. The republic, which had preserved
 longest, and with greatest purity, that vestal fire, had at least no
 relative degradation to fear in surrendering herself to Lorenzo de'
 Medici. I need not in this place expatiate upon what the name
 instantly suggests, the patronage of science and art, and the
 constellation of scholars and poets, of architects and painters,
 whose reflected beams cast their radiance around his head. His
 political reputation, though far less durable, was in his own age
 as conspicuous as that which he acquired in the history of letters.
 Equally active and sagacious, he held his way through the varying
 combinations of Italian policy, always with credit, and generally
 with success. Florence, if not enriched, was upon the whole
 aggrandized during his administration, which was exposed to some

* Lorenzo says, in excuse of himself, that
 it was not easy to live at Florence without
 governing it; a Firenze mal si può vivere

senza lo stato; which was true enough, and
 his ancestors had been in a good degree the
 cause of it. Roscoe's Appendix. N. 12.

severe storms from the unscrupulous adversaries, Sixtus IV. and Ferdinand of Naples, whom he was compelled to resist. As a patriot, indeed, we never can bestow upon Lorenzo de' Medici the meed of disinterested virtue. He completed that subversion of the Florentine republic, which his two immediate ancestors had so well prepared. The two councils, her regular legislature, he superseded by a permanent senate of seventy persons;* while the gonfalonier and priors, become a mockery and pageant, to keep up the illusion of liberty, were taught that in exercising a legitimate authority, without the sanction of their prince, a name now first heard at Florence, they incurred the risk of punishment for their audacity.† Even the total dilapidation of his commercial wealth was repaired at the cost of the state; and the republic disgracefully screened the bankruptcy of the Medici by her own.‡ But, compared with the

* Ammirato, p. 145. Machiavel says, l. viii. that this was done *ristringere il governo, e che le deliberazioni importanti si riducessero in minore numero*. Mr. Roscoe, vol. ii. p. 53. is puzzled how to explain this decided breach of the people's rights by his hero. But though it rather appears from Ammirato's expressions, that the two councils were now abolished, yet from M. Sismondi, t. xi. p. 186. who quotes an author I have not seen, and from Nardi, p. 7. I should infer that they still formally subsisted.

† Cambi, a gonfalonier of justice, had, in concert with the priors, admonished some public officers for a breach of duty. *Fu giudicato questo atto molto superbo*, says Ammirato, *che senza partecipazione di Lorenzo de' Medici, principe del governo, fosse seguito, che in Pisa in quel tempo si ritrovava*. p. 184. The gonfalonier was fined for executing his constitutional functions. This was a downright confession that the republic was at an end; and all it provokes M. Sismondi to say, is not too much. t. xi. p. 345.

‡ Since the Medici took on themselves the character of princes, they had forgotten how to be merchants. But, imprudently enough, they had not discontinued their commerce, which was of course mismanaged

by agents, whom they did not overlook. The consequence was the complete dilapidation of their vast fortune. The public revenues had been for some years applied to make up its deficiencies. But, from the measures adopted by the republic, if we may still use that name, she should appear to have considered herself, rather than Lorenzo, as the debtor. The interest of the public debt was diminished one half. Many charitable foundations were suppressed. The circulating specie was taken at one-fifth below its nominal value in payment of taxes, while the government continued to issue it at its former rate. Thus was Lorenzo reimbursed a part of his loss, at the expense of all his fellow citizens. Sismondi, t. xi. p. 347. It is slightly alluded to by Machiavel.

The vast expenditure of the Medici for the sake of political influence would of itself have absorbed all their profits. Cosmo is said by Guicciardini to have spent 400,000 ducats in building churches, monasteries, and other public works. l. i. p. 91. The expenses of the family between 1434 and 1471 in buildings, charities, and taxes alone amounted to 663,755 florins; equal in value, according to Sismondi, to 32,000,000 francs at present. *Hist. des Républ.* t. x. p. 173.

CHAP. statesmen of his age, we can reproach Lorenzo with no heinous
 crime. He had many enemies; his descendants had many more;
 but no unequivocal charge of treachery or assassination has been
 substantiated against his memory. By the side of Galeazzo or
 Ludovico Sforza, of Ferdinand or his son Alfonso of Naples, of the
 popes Sixtus IV. and Innocent VIII., he shines with unspotted
 lustre. So much was Lorenzo esteemed by his contemporaries, that
 his premature death has frequently been considered as the cause of
 those unhappy revolutions that speedily ensued, and which his fore-
 sight would, it was imagined, have been able to prevent; an
 opinion, which, whether founded in probability or otherwise, attests
 the common sentiment about his character.

III.
 PART II.
 ~~~~~  
 ITALY.

1492

Pretensions  
 of France  
 upon Na-  
 ples.

If indeed Lorenzo de' Medici could not have changed the destinies of Italy, however premature his death may appear, if we consider the ordinary duration of human existence, it must be admitted, that for his own welfare, perhaps for his glory, he had lived out the full measure of his time. An age of new and uncommon revolutions was about to arise, among the earliest of which the temporary downfall of his family was to be reckoned. The long contested succession of Naples was again to involve Italy in war. The ambition of strangers was once more to desolate her plains. Ferdinand, king of Naples, had reigned for thirty years after the discomfiture of his competitor with success and ability; but with a degree of ill faith as well as tyranny towards his subjects that rendered his government deservedly odious. His son Alfonso, whose succession seemed now near at hand, was still more marked by these vices than himself.\* Meanwhile, the pretensions of the house of Anjou had legally descended, after the death of old Regnier, to Regnier duke of Lorraine, his grandson by a daughter; whose

They seem to have advanced monies imprudently, through their agents, to Edward IV., who was not the best of debtors. Comines, *Mém. de Charles VIII.*, l. vii. c. 6.

\* Comines, who speaks sufficiently ill of

the father, sums up the son's character very concisely. *Nul homme n'a este plus cruel qui lui, ne plus mauvais, ne plus vicieux et plus infect, ne plus gourmand que lui.* l. vii. c. 13.



marriage into the house of Lorraine had, however, so displeased her father, that he bequeathed his Neapolitan title, along with his real patrimony, the county of Provence, to a count of Maine; by whose testament again they became vested in the crown of France. Louis XI., while he took possession of Provence, gave himself no trouble about Naples. But Charles VIII., inheriting his father's ambition without that cool sagacity which restrained it in general from impracticable attempts, and far better circumstanced at home than Louis had ever been, was ripe for an expedition to vindicate his pretensions upon Naples, or even for more extensive projects. It was now two centuries since the kings of France had aimed, by intervals, at conquests in Italy. Philip the Fair and his successors were anxious to keep up a connexion with the Guelf party, and to be considered its natural heads, as the German emperors were of the Ghibelins. The long English wars changed all views of the court of France to self-defence. But in the fifteenth century, its plans of aggrandizement beyond the Alps began to revive. Several times, as I have mentioned, the republic of Genoa put itself under the dominion of France. The dukes of Savoy, possessing most part of Piedmont, and masters of the mountain-passes, were by birth, intermarriage, and habitual policy, completely dedicated to the French interests.\* In the former war of Ferdinand against the house of Anjou, Pope Pius II. a very enlightened statesman, foresaw the danger of Italy, from the prevailing influence of France, and deprecated the introduction of her armies.† But at that time the

\* Denina, *Storia dell' Italia Occidentale*, t. ii. passim. Louis XI. treated Savoy as a fief of France; interfering in all its affairs, and even taking on himself the regency after the death of Philibert I., under pretence of preventing disorders. p. 185. The marquis of Saluzzo, who possessed considerable territories in the south of Piedmont, had done homage to France ever since 1353 (p. 40.) though to the injury of his real superior, the duke of Savoy. This gave France another pretext for interference in Italy. p. 187.

† Cosmo de' Medici, in a conference with Pius II. at Florence, having expressed his surprize that the pope should support Ferdinand; *Pontifex haud ferendum fuisse ait, regem a se constitutum, armis ejici, neque id Italiae libertati conducere; Gallos, si regnum obtinuissent, Senas haud dubiè subacturos; Florentinos adversus lilia nihil acturos; Borsium Mutinae ducem Gallis galliorem videri; Flaminiae regulos ad Francos inclinare; Genuam Francis subesse, et civitatem Astensem; si pontifex Romanus*



CHAP. central parts of Lombardy were held by a man equally renowned  
 III. as a soldier and a politician, Francisco Sforza. Conscious that a  
 PART II. claim upon his own dominions subsisted in the house of Orleans, he  
 ITALY. maintained a strict alliance with the Aragonese dynasty at Naples,  
 as having a common interest against France. But after his death  
 the connexion between Milan and Naples came to be weakened.  
 In the new system of alliances, Milan and Florence, sometimes  
 including Venice, were combined against Ferdinand and Sixtus IV.,  
 an unprincipled and restless pontiff. Ludovico Sforza, who had  
 usurped the guardianship of his nephew, the duke of Milan, found,  
 as that young man advanced to maturity, that one crime required  
 to be completed by another. To depose and murder his ward was  
 however a scheme, that prudence, though not conscience, made him  
 hesitate to execute. He had rendered Ferdinand of Naples, and  
 Piero de' Medici, Lorenzo's heir, his decided enemies. A revolution  
 at Milan would be the probable result of his continuing in usurpa-  
 tion. In these circumstances, Ludovico Sforza excited the king of  
 1493 France to undertake the conquest of Naples.\*

So long as the three great nations of Europe were unable to put  
 forth their natural strength through internal separation or foreign war,  
 the Italians had so little to dread for their independence, that their  
 policy was altogether directed to regulating the domestic balance of  
 power among themselves. In the latter part of the fifteenth century,  
 a more enlarged view of Europe would have manifested the necessity  
 of reconciling petty animosities, and sacrificing petty ambition, in  
 order to preserve the nationality of their governments; not by  
 attempting to melt down Lombards and Neapolitans, principalities  
 and republics, into a single monarchy, but by the more just and  
 rational scheme of a common federation. The politicians of Italy  
 were abundantly competent, as far as cool and clear understandings

*aliquando Francorum amicus assumatur,  
 nihil reliqui in Italiâ remanere quod non  
 transeat in Gallorum nomen; tueri se  
 Italiam, dum Ferdinandum tueretur. Com-  
 mentar. Pii Secundi. l. iv. p. 96. Spon-*

*danus, who led me to this passage, is very  
 angry; but the year 1494 proved Pius II.  
 to be a wary statesman.*

\* Guicciardini, l. i.



could render them, to perceive the interests of their country. But it is the will of Providence, that the highest and surest wisdom, even in matters of policy, should never be unconnected with virtue. In relieving himself from an immediate danger, Ludovico Sforza overlooked the consideration that the presumptive heir of the king of France claimed by an ancient title that principality of Milan, which he was compassing by usurpation and murder. But neither Milan nor Naples was free from other claimants than France, nor was she reserved to enjoy unmolested the spoil of Italy. A louder and a louder strain of warlike dissonance will be heard from the banks of the Danube, and from the Mediterranean gulf. The dark and wily Ferdinand, the rash and lively Maximilian, are preparing to hasten into the lists; the schemes of ambition are assuming a more comprehensive aspect; and the controversy of Neapolitan succession is to expand into the long rivalry between the houses of France and Austria. But here, while Italy is still untouched, and before as yet the first lances of France gleam along the defiles of the Alps, we close the history of the Middle Ages.

CHAP.  
III.  
PART II.  
ITALY.

CHAP.  
IV.  
The history of Spain during the middle ages ought to commence with the dynasty of the Visigoths, as noted in the first chapter, who invaded and overthrew the Roman empire, and whose establishment preceded by nearly half a century the invasion of Clovis. Visigoths by that conqueror in the battle of Poitiers, the Gothic monarchy lost their extensive dominions by Gaul, and transferred their residence from Toulouse to Toledo. But I hold the annals of barbarians so unworthy of notice, that I will not detain the reader by naming one sovereign of that obscure race. The Merovingian kings of France were perhaps as deeply stained by atrocious crimes, but their history, slightly as I have noticed it, is the necessary foundation of that of Charlemagne, and illustrates the feudal system and consti-



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PART II.  
ITALY.  
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Alps, we close the history of the Middle Ages, is a circumstance  
not of chance, but of design, to contain forty years of the  
new world, so that the history of the world may be divided into  
four equal parts, each of which shall be a complete history of  
the world, and each of which shall be a complete history of the  
world. The first part, the history of the world, is a complete  
history of the world, and the second part, the history of the  
world, is a complete history of the world. The third part, the  
history of the world, is a complete history of the world. The  
fourth part, the history of the world, is a complete history of  
the world. The fifth part, the history of the world, is a complete  
history of the world. The sixth part, the history of the world, is  
a complete history of the world. The seventh part, the history of  
the world, is a complete history of the world. The eighth part,  
the history of the world, is a complete history of the world. The  
ninth part, the history of the world, is a complete history of the  
world. The tenth part, the history of the world, is a complete  
history of the world. The eleventh part, the history of the world,  
is a complete history of the world. The twelfth part, the history  
of the world, is a complete history of the world. The thirteenth  
part, the history of the world, is a complete history of the world.  
The fourteenth part, the history of the world, is a complete  
history of the world. The fifteenth part, the history of the world,  
is a complete history of the world. The sixteenth part, the history  
of the world, is a complete history of the world. The seventeenth  
part, the history of the world, is a complete history of the world.  
The eighteenth part, the history of the world, is a complete  
history of the world. The nineteenth part, the history of the world,  
is a complete history of the world. The twentieth part, the history  
of the world, is a complete history of the world. The twenty-first  
part, the history of the world, is a complete history of the world.  
The twenty-second part, the history of the world, is a complete  
history of the world. The twenty-third part, the history of the  
world, is a complete history of the world. The twenty-fourth  
part, the history of the world, is a complete history of the world.  
The twenty-fifth part, the history of the world, is a complete  
history of the world. The twenty-sixth part, the history of the  
world, is a complete history of the world. The twenty-seventh  
part, the history of the world, is a complete history of the world.  
The twenty-eighth part, the history of the world, is a complete  
history of the world. The twenty-ninth part, the history of the  
world, is a complete history of the world. The thirtieth part,  
the history of the world, is a complete history of the world.



## CHAPTER IV.

## THE HISTORY OF SPAIN TO THE CONQUEST OF GRANADA.

*Kingdom of the Visigoths—Conquest of Spain by the Moors—Gradual Revival of the Spanish Nation—Kingdoms of Leon, Aragon, Navarre and Castile, successively formed—Chartered Towns of Castile—Military Orders—Conquests of Ferdinand III. and James of Aragon—Causes of the Delay in expelling the Moors—History of Castile continued—Character of the Government—Peter the Cruel—House of Trastamare—John II.—Henry IV.—Constitution of Castile—National Assemblies or Cortes—their constituent parts—Right of Taxation—Legislation—Privy Council of Castile—Laws for the Protection of Liberty—Imperfections of the Constitution—Aragon—its History in the fourteenth and fifteenth Centuries—disputed Succession—Constitution of Aragon—free Spirit of its Aristocracy—Privilege of Union—Powers of the Justiza—Legal Securities—Illustrations—other Constitutional Laws—Valencia and Catalonia—Union of two Crowns by the Marriage of Ferdinand and Isabella—Conquest of Granada.*

THE history of Spain during the middle ages ought to commence with the dynasty of the Visigoths; a nation among the first that assaulted and overthrew the Roman empire, and whose establishment preceded by nearly half a century the invasion of Clovis. Vanquished by that conqueror in the battle of Poitiers, the Gothic monarchs lost their extensive dominions in Gaul, and transferred their residence from Toulouse to Toledo. But I hold the annals of barbarians so unworthy of remembrance, that I will not detain the reader by naming one sovereign of that obscure race. The Merovingian kings of France were perhaps as deeply stained by atrocious crimes, but their history, slightly as I have noticed it, is the necessary foundation of that of Charlemagne, and illustrates the feudal system and consti-

CHAP.  
IV.

SPAIN.

Kingdom of  
Visigoths in  
Spain.



CHAP. tutional antiquities of France. If those of Castile had been equally  
 IV. interesting to the historical student, I should have taken the same  
 SPAIN. pains to trace their original in the Gothic monarchy. For that is at  
 least as much the primary source of the old Castilian constitution, as  
 the Anglo-Saxon polity of our own. It may however suffice to men-  
 tion, that it differed in several respects from that of the Franks during  
 the same period. The crown was less hereditary, or at least the  
 regular succession was more frequently disturbed. The prelates had  
 a still more commanding influence in temporal government. The  
 distinction of Romans and barbarians was less marked; the laws  
 more uniform, and approaching nearly to the imperial code. The  
 power of the sovereign was perhaps more limited by an aristocratical  
 council than in France, but it never yielded to the dangerous influ-  
 ence of Mayors of the palace. Civil wars and disputed successions  
 were very frequent; but the integrity of the kingdom was not vio-  
 lated by the custom of partition.

Conquest by  
 the Sara-  
 cens.

Spain, after remaining for nearly three centuries in the possession  
 of the Visigoths, fell under the yoke of the Saracens in 712. The  
 fervid and irresistible enthusiasm which distinguished the youthful  
 period of Mohammedism, might sufficiently account for this con-  
 quest; even if we could not assign additional causes, the factions  
 which divided the Goths, the resentment of disappointed pretenders  
 to the throne, the provocations of Count Julian, and the temerity that  
 risked the fate of an empire on the chances of a single battle. It is  
 more surprizing, that a remnant of this ancient monarchy should not  
 only have preserved its national liberty and name in the northern  
 mountains, but waged for some centuries a successful, and generally  
 an offensive warfare against the conquerors, till the balance was  
 completely turned in its favour, and the Moors were compelled to  
 maintain almost as obstinate and protracted a contest for a small  
 portion of the peninsula. But the Arabian monarchs of Cordova  
 found in their success and imagined security a pretext for indolence;  
 even in the cultivation of science, and contemplation of the magnifi-  
 cent architecture of their mosques and palaces, they forgot their poor,



but daring enemies in the Asturias; while, according to the nature of despotism, the fruits of wisdom or bravery in one generation were lost in the follies and effeminacy of the next. Their kingdom was dismembered by successful rebels, who formed the states of Toledo, Huesca, Saragosa, and others less eminent; and these, in their own mutual contests, not only relaxed their natural enmity towards the Christian princes, but sometimes sought their alliance.\*

CHAP.  
IV.  
SPAIN.

The last attack, which seemed to endanger the reviving monarchy of Spain, was that of Almanzor, the illustrious vizir of Haccham II. towards the end of the tenth century, wherein the city of Leon and even the shrine of Compostella were burned to the ground. For some ages before this transient reflux, gradual encroachments had been made upon the Saracens; and the kingdom originally styled of Oviedo, the seat of which was removed to Leon in 914, had extended its boundary to the Duero, and even to the mountainous chain of the Guadarrama. The province of old Castile, thus denominated, as is generally supposed, from the castles erected, while it remained a march or frontier against the Moors, was governed by hereditary counts, elected originally by the provincial aristocracy, and virtually independent, it seems probable, of the kings of Leon, though commonly serving them in war, as brethren of the same faith and nation.†

Kingdom of  
Leon.

While the kings of Leon were thus occupied in recovering the western provinces, another race of Christian princes grew up silently under the shadow of the Pyrenean mountains. Nothing can be more obscure than the beginnings of those little states, which were formed in Navarre and the country of Soprarbe. They might per-

Kingdoms  
of Navarre  
and Aragon.

\* Cardonne, *Histoire de l'Afrique et de l'Espagne*.

† According to Roderic of Toledo, one of the earliest Spanish historians, though not older than the beginning of the thirteenth century, the nobles of Castile, in the reign of Froila, about the year 924, *sibi et posteris providerunt, et duos milites non de potentioribus, sed de prudentioribus elegerunt; quos et judices statuerunt, ut dissensiones patriæ et querelantium causæ suo*

*judicio sopirentur*. l. v. c. 1. Several other passages in the same writer prove that the counts of Castile were nearly independent of Leon, at least from the time of Ferdinand Gonsalvo about the middle of the tenth century. *Ex quo iste suscepit suæ patriæ comitatum, cessaverunt reges Asturiarum inolescere in Castellam, et a flumine Pisoricâ nihil amplius vindicârunt*. l. v. c. 2. Marina, in his *Ensayo Historico-Critico*, is disposed to controvert this fact.



CHAP. haps be almost contemporaneous with the Moorish conquests. On  
 IV. both sides of the Pyrenees dwelt an aboriginal people; the last to  
 SPAIN. undergo the yoke, and who had never acquired the language of Rome. We know little of these intrepid mountaineers in the dark period which elapsed under the Gothic and Frank dynasties, till we find them cutting off the rear-guard of Charlemagne in Roncesvalles, and maintaining at least their independence, though seldom, like the kings of Asturias, waging offensive war against the Saracens. The town of Jaca, situated among long narrow vallies that intersect the southern ridges of the Pyrenees, was the capital of a little free state, which afterwards expanded into the monarchy of Aragon.\* A territory rather more extensive belonged to Navarre, the kings of which fixed their seat at Pampelona. Biscay seems to have been divided between this kingdom and that of Leon. The connexion of Aragon or Soprarbe and Navarre was very intimate, and they were often united under a single chief.

Kingdom of  
Castile.

At the beginning of the eleventh century, Sancho the Great, king of Navarre and Aragon, was enabled to render his second son Ferdinand, count, or, as he assumed the title, king of Castile. This effectually dismembered that province from the kingdom of Leon; but their union soon became more complete than ever, though with a reversed supremacy. Bermudo III. king of Leon, fell in a battle with the new king of Castile, who had married his sister; and Ferdinand,

\* The Fueros, or written laws of Jaca, were perhaps more ancient than any local customary in Europe. Alfonso III. confirms them by name of the ancient usages of Jaca. They prescribe the descent of lands and moveables, as well as the election of municipal magistrates. The following law, which enjoins the rising in arms on a sudden emergency, illustrates, with a sort of romantic wildness, the manners of a pastoral, but warlike people, and reminds us of a well-known passage in the Lady of the Lake. De appellitis ita statuimus. Cum homines de villis, vel qui stant in montanis cum suis ganatis [gregibus], audierint appellitum; omnes capiant arma, et dimissis ganatis, et

omnibus aliis suis faziendis [negotiis] sequantur appellitum. Et si illi qui fuerint magis remoti, invenerint in villâ magis proximâ appellito, [deest aliquid?] omnes qui nondum fuerint egressi tunc villam illam, quæ tardius secuta est appellitum, pecent [solvant] unam baccam [vaccam]; and unusquisque homo ex illis qui tardius secutus est appellitum, et quem magis remoti præcesserint, pecet tres solidos, quomodo nobis videbitur, partiendos. Tamen in Jacâ, et in aliis villis sint aliqui nominati et certi, quos elegerint consules, qui remaneant ad villas custodiendas et defendendas. Bianca Commentaria in Schotti Hispania Illustrata, p. 595.



in her right, or in that of conquest, became master of the whole CHAP.  
Hispano-Gothic monarchy. This cessation of hostilities between the IV.  
Christian states enabled them to direct a more unremitting energy SPAIN.  
against their ancient enemies, who were now sensibly weakened  
by the various causes of decline to which I have already alluded  
During the eleventh century, the Spaniards were almost always  
superior in the field; the towns, which they began by pillaging, they  
gradually possessed; their valour was heightened by the customs of  
chivalry, and inspired by the example of the Cid; and before the  
end of this age, Alonso VI. recovered the ancient metropolis of the  
monarchy, the city of Toledo. This was the severest blow which  
the Moors had endured, and an unequivocal symptom of that change  
in their relative strength, which, from being so gradual, was the  
more irretrievable. Calamities scarcely inferior fell upon them in a  
different quarter. The kings of Aragon (a title belonging originally  
to a little district upon the river of that name) had been cooped up  
almost in the mountains by the small Moorish states north of the  
Ebro, especially that of Huesca. About the middle of the eleventh  
century, they began to attack their neighbours with success; the  
Moors lost one town after another, till in 1118, exposed and weak-  
ened by the reduction of all these places, the city of Saragosa, in  
which a line of Mohammedan princes had flourished for several  
ages, became the prize of Alfonso I. and the capital of his kingdom.  
The southern parts of what is now the province of Aragon were suc-  
cessively reduced during the twelfth century; while all New Castile  
and Estremadura became annexed in the same gradual manner to  
the dominion of the descendants of Alfonso VI.

Capture of  
Toledo.

and Sara-  
gosa.

Although the feudal system cannot be said to have obtained in the  
kingdoms of Leon and Castile, their peculiar situation gave the  
aristocracy a great deal of the same power and independence which  
resulted in France and Germany from that institution. The territory  
successively recovered from the Moors, like waste lands reclaimed,  
could have no proprietor but the conquerors; and the prospect of  
such acquisitions was a constant incitement to the nobility of Spain;

Mode of set-  
tling the  
new con-  
quests.



CHAP. especially to those who had settled themselves on the Castilian  
 IV. frontier. In their new conquests, they built towns and invited  
 SPAIN. Christian settlers, the Saracen inhabitants being commonly expelled, or voluntarily retreating to the safer provinces of the south. Thus Burgos was settled by a count of Castile about 880; another fixed his seat at Osma; a third at Sepulveda; a fourth at Salamanca. These cities were not free from incessant peril of a sudden attack till the union of the two kingdoms under Ferdinand I. and consequently the necessity of keeping in exercise a numerous and armed population gave a character of personal freedom and privilege to the inferior classes, which they hardly possessed at so early a period in any other monarchy. Villenage, or the exclusion of the peasant from civil rights, seems never to have been established in the Hispano-Gothic kingdoms; though I confess it was far from being unknown in that of Aragon, which had formed its institutions on a feudal pattern. Since nothing makes us forget the arbitrary distinctions of rank so much as participation in any common calamity, every man who had escaped the great shipwreck of liberty and religion in the mountains of Asturias was invested with a personal dignity, which gave him value in his own eyes and those of his country. It is probably this sentiment, transmitted to posterity, and gradually fixing the national character, that has produced the elevation of manner, remarked by travellers in the Castilian peasant. But while these acquisitions of the nobility promoted the grand object of winning back the peninsula from its invaders, they by no means invigorated the government nor tended to domestic tranquillity.

Chartered  
towns or  
communi-  
ties.

A more interesting method of securing the public defence was by the institution of chartered towns or communities. These were established at an earlier period than in France or England, and were in some degree of a peculiar description. Instead of purchasing their immunities, and almost their personal freedom, at the hands of a master, the burgesses of Castilian towns were invested with civil rights and extensive property on the more liberal condition of protecting their country. The earliest instance of the erection of a community



is in 1020, when Alfonso V. in the cortes at Leon established the privileges of that city, with a regular code of laws, by which its magistrates should be governed. The citizens of Carrion, Llanes, and other towns were incorporated by the same prince. Sancho the Great gave a similar constitution to Naxara. Sepulveda had its code of laws in 1076 from Alfonso VI.; in the same reign Logrono and Sahagun acquired their privileges, and Salamanca not long afterwards. The fuero, or original charter of a Spanish community was properly a compact, by which the king or lord granted a town and adjacent district to the burgesses, with various privileges, and especially that of choosing magistrates and a common council, who were bound to conform themselves to the laws prescribed by the founder. These laws, civil as well as criminal, though essentially derived from the ancient code of the Visigoths, which continued to be the common law of Castile till the thirteenth or fourteenth century, varied from each other in particular usages, which had probably grown up and been established in these districts before their legal confirmation. The territory held by chartered towns was frequently very extensive, far beyond any comparison with corporations in our own country or in France; including the estates of private land-holders, subject to the jurisdiction and controul of the municipality, as well as its inalienable demesnes allotted to the maintenance of the magistrates and other public expenses. In every town the king appointed a governor to receive the usual tributes, and watch over the police and the fortified places within the district; but the administration of justice was exclusively reserved to the inhabitants and their elected judges. Even the executive power of the royal officer was regarded with jealousy; he was forbidden to use violence towards any one without legal process; and, by the fuero of Logrono, if he attempted to enter forcibly into a private house, he might be killed with impunity. These democratical customs were altered in the fourteenth century by Alfonso XI., who vested the municipal administration in a small number of jurats, or regidores. A pretext for this was found in some disorders to which popular elections had led; but the real motive, of course,



CHAP. must have been to secure a greater influence for the crown, as in  
IV. similar innovations of some English kings.

SPAIN.

In recompense for such liberal concessions, the incorporated towns were bound to certain money payments, and to military service. This was absolutely due from every inhabitant, without dispensation or substitution, unless in case of infirmity. The royal governor and the magistrates, as in the simple times of primitive Rome, raised and commanded the militia; who, in a service always short, and for the most part necessary, preserved that delightful consciousness of freedom, under the standard of their fellow-citizens and chosen leaders, which no mere soldier can enjoy. Every man of a certain property was bound to serve on horseback, and was exempted in return from the payment of taxes. This produced a distinction between the *caballeros*, or noble class, and the *pecheros*, or payers of tribute. But the distinction appears to have been founded only upon wealth, as in the Roman equites, and not upon hereditary rank, though it most likely prepared the way for the latter. The horses of these caballeros could not be seized for debt; in some cases, they were exclusively eligible to magistracy; and their honour was protected by laws which rendered it highly penal to insult or molest them. But the civil rights of rich and poor in courts of justice were as equal as in England.\*

Military  
orders.

The progress of the Christian arms in Spain may in part be ascribed to another remarkable feature in the constitution of that country, the military orders. These had already been tried with signal effect in Palestine; and the similar circumstances of Spain easily led to an adoption of the same policy. In a very few years after the first institution of the Knights Templars, they were endowed

\* I am indebted for this account of municipal towns in Castile to a book published at Madrid in 1808, immediately after the revolution, by the Doctor Marina, a canon of the church of St. Isidor, intitled, *Ensayo Historico-Critico sobre la antigua legislacion y principales cuerpos legales de los reynos*

de Leon y Castilla, especialment sobre el código de D. Alonso el Sabio, conocido con el nombre de las Siete Partidas. This work is perhaps not easily to be procured in England; but an article in the *Edinburgh Review*, No. XLIII., will convey a sufficient notion of its contents.



with great estates, or rather districts, won from the Moors, on condition of defending their own and the national territory. These lay chiefly in the parts of Aragon beyond the Ebro, the conquest of which was then recent and insecure.\* So extraordinary was the respect for this order, and that of the Hospital, and so powerful the conviction that the hope of Christendom rested upon their valour, that Alfonso the First, king of Aragon, dying childless, bequeathed to them his whole kingdom; an example of liberality, says Mariana, to surprize future times, and displease his own.† The states of Aragon annulled, as may be supposed, this strange testament; but the successor of Alfonso was obliged to pacify the ambitious knights by immense concessions of money and territory; stipulating even not to make peace with the Moors against their will.‡ In imitation of these great military orders common to all Christendom, there arose three Spanish institutions of a similar kind, the orders of Calatrava, Santiago, and Alcantara. The first of these was established in 1158; the second and most famous had its charter from the pope in 1175, though it seems to have existed previously; the third branched off from that of Calatrava at a subsequent time.§ These were military colleges, having their walled towns in different parts of Castile, and governed by an elective grand master, whose influence in the state was at least equal to that of any of the nobility. In the civil dissensions of the fourteenth and fifteenth centuries, the chiefs of these incorporated knights were often very prominent.

The kingdoms of Leon and Castile were unwisely divided anew by Alfonso VII. between his sons Sancho and Ferdinand; and this produced not only a separation, but a revival of the ancient jealousy with frequent wars for near a century. At length in 1238, Ferdinand III. king of Castile, re-united for ever the two branches of the Gothic monarchy. He employed their joint strength against the Moors, whose dominion, though it still embraced the finest provinces

Final union  
of Leon and  
Castile.

\* Mariana, Hist. Hispan. l. x. c. 10.

† l. x. c. 15.

‡ l. x. c. 18.

§ l. xi. c. 6. 13. l. xii. c. 3.



CHAP. of the peninsula, was sinking by internal weakness, and had never  
 IV. recovered a tremendous defeat at Banos di Tolosa, a few miles from  
 SPAIN. Baylen, in 1210.\* Ferdinand, bursting into Andalusia, took its  
 Conquest great capital, the city of Cordova, not less ennobled by the cultiva-  
 of Anda- tion of Arabian science, and by the names of Avicenna and Averroes,  
 lusia 1236 than by the splendid works of a rich and munificent dynasty.† In  
 a few years more, Seville was added to his conquests, and the  
 Moors lost their favourite regions on the banks of the Guadalquivir.  
 and Valen- James I. of Aragon, the victories of whose long reign gave him the  
 cia. surname of Conqueror, reduced the city and kingdom of Valencia,  
 the Balearic isles, and the kingdom of Murcia, but the last was  
 annexed, according to compact, to the crown of Castile.

Expulsion  
 of the Moors  
 long delay-  
 ed.

It could hardly have been expected about the middle of the thirteenth century, when the splendid conquests of Ferdinand and James had planted the Christian banner on the three principal Moorish cities, that two hundred and fifty years were yet to elapse before the rescue of Spain from their yoke should be completed. Ambition, religious zeal, national enmity, could not be supposed to pause in a career, which now seemed to be obstructed by such moderate difficulties. But we find, on the contrary, the exertions of the Spaniards begin from this time to relax, and their acquisitions of territory to become more slow. One of the causes, undoubtedly, that produced this unexpected protraction of the contest was the superior means of resistance which the Moors found in retreating.

\* A letter of Alfonso IX. who gained this victory, to Pope Innocent III., puts the loss of the Moors at 180,000 men. The Arabian historians, though without specifying numbers, seem to confirm this immense slaughter, which nevertheless it is difficult to conceive before the invention of gunpowder, or indeed since. Cardonne, t. ii. p. 327.

† If we can rely on a Moorish author, quoted by Cardonne, (t. i. p. 337.) the city of Cordova contained, I know not exactly in what century, 200,000 houses, 600 mosques, and 900 public baths. There were 12,000 towns and villages on the banks of the Gua-

dalquivir. The mines of gold and silver were very productive. And the resources of the khalifs of Cordova are said to have amounted to 130,000,000 of French money; besides large contributions that, according to the practice of oriental governments, were paid in the fruits of the earth. Other proofs of the extraordinary opulence and splendour of this monarchy are dispersed in Cardonne's work, from which they have been chiefly borrowed by later writers. The splendid engravings in Murphy's Moorish Antiquities of Spain illustrate this subject.



Their population, spread originally over the whole of Spain, was now condensed, and, if I may so say, become no further compressible, in a single province. It had been mingled, in the northern and central parts, with the Mozarabic Christians, their subjects and tributaries, not perhaps treated with much injustice, yet naturally and irremediably their enemies. Toledo and Saragosa, when they fell under a Christian sovereign, were full of these inferior Christians, whose long intercourse with their masters has infused the tones and dialect of Arabia into the language of Castile.\* But in the twelfth century, the Moors, exasperated by defeat, and jealous of secret disaffection, began to persecute their Christian subjects, till they renounced or fled for their religion; so that in the southern provinces scarcely any professors of Christianity were left at the time of Ferdinand's invasion. An equally severe policy was adopted on the other side. The Moors had been permitted to dwell in Saragosa, as the Christians had dwelt before, subjects, not slaves; but on the capture of Seville, they were entirely expelled, and new settlers invited from every part of Spain. The strong fortified towns of Andalusia, such as Gibraltar, Algeziras, Tariffa, maintained also a more formidable resistance than had been experienced in Castile; they cost tedious sieges, were sometimes recovered by the enemy, and were always liable to his attacks. But the great protection of the Spanish Mohammedans was found in the alliance and ready aid of their kindred beyond the straits. Accustomed to hear of the African Moors only as pirates, we cannot easily conceive the powerful dynasties, the warlike chiefs, the vast armies which for seven or eight centuries illustrate the annals of that people. Their assistance was always afforded to the true believers in Spain, though their ambition was generally dreaded by those who stood in need of their valour.†

Probably, however, the kings of Granada were most indebted to the indolence which gradually became characteristic of their enemies. By the cession of Murcia to Castile, the kingdom of Aragon shut

\* Mariana, l. xi. c. 1. Gibbon, c. 51. † Cardonne, t. ii. and iii. passim.



CHAP. itself out from the possibility of extending those conquests which had  
 IV. ennobled her earlier sovereigns ; and their successors, not less ambi-  
 SPAIN. tious and enterprizing, diverted their attention towards objects  
 beyond the peninsula. The Castilian, patient and undesponding in  
 bad success, loses his energy as the pressure becomes less heavy, and  
 puts no ordinary evil in comparison with the exertions by which it  
 must be removed. The greater part of his country freed by his arms,  
 he was content to leave the enemy in a single province, rather than  
 undergo the labour of making his triumph complete.

Alfonso X. If a similar spirit of insubordination had not been found compa-  
 1252 tible in earlier ages with the aggrandizement of the Castilian monarchy,  
 we might ascribe its want of splendid successes against the Moors to  
 the continual rebellions which disturbed that government for more  
 than a century after the death of Ferdinand III. His son, Alfonso  
 X., might justly acquire the surname of Wise for his general profi-  
 ciency in learning, and especially in astronomical science ; if these  
 attainments deserved praise in a king, who was incapable of preser-  
 ving his subjects in their duty. As a legislator, Alfonso, by his code  
 of the Siete Partidas, sacrificed the ecclesiastical rights of his crown  
 to the usurpation of Rome ;\* and his philosophy sunk below the  
 level of ordinary prudence, when he permitted the phantom of an  
 imperial crown in Germany to seduce his hopes for almost twenty  
 years. For the sake of such an illusion he would even have with-  
 drawn himself from Castile, if the states had not remonstrated against  
 an expedition, that would probably have cost him the kingdom. In  
 the latter years of his turbulent reign, Alfonso had to contend against  
 his son. The right of representation was hitherto unknown in Castile,  
 which had borrowed little from the customs of feudal nations. By  
 the received law of succession, the nearer was always preferred to  
 the more remote, the son to the grandson. Alfonso X. had esta-  
 blished the different maxim of representation by his code of the  
 Siete Partidas, the authority of which, however, was not universally

\* Marina, Ensayo Historico-Critico, p. 272. &c.



acknowledged. The question soon came to an issue, on the death of his elder son Ferdinand, leaving two male children. Sancho their uncle asserted his claim, founded upon the ancient Castilian right of succession; and this, chiefly no doubt through fear of arms, though it did not want plausible arguments, was ratified by an assembly of the cortes, and secured, notwithstanding the king's reluctance, by the courage of Sancho. But the descendants of Ferdinand, generally called the Infants of la Cerda, by the protection of France, to whose royal family they were closely allied, and of Aragon, always prompt to interfere in the disputes of a rival people, continued to assert their pretensions for more than half a century, and, though they were not very successful, did not fail to aggravate the troubles of their country.

CHAP.  
IV.  
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The annals of Sancho IV. and his two immediate successors, Ferdinand IV. and Alfonso XI. present a series of unhappy and dishonourable civil dissensions with too much rapidity to be remembered or even understood. Although the Castilian nobility had no pretence to the original independence of the French peers, or to the liberties of feudal tenure, they assumed the same privilege of rebelling upon any provocation from their sovereign. When such occurred, it was their right, or at least their custom, to renounce their allegiance by a solemn instrument, which exempted them from the penalties of treason.\* A very few families composed an oligarchy, the worst and most ruinous condition of political society, alternately the favourites and ministers of the prince, or in arms against him. If unable to protect themselves in their walled towns, and by the aid of their faction, these Christian patriots retired to Aragon or Granada, and excited an hostile power against their country and perhaps their religion. Nothing is more common in the Castilian history, than instances of such defection. Mariana remarks coolly of the family of Castro, that they were much in the habit of revolting to the Moors.† This house and that of Lara

Civil disturbances of  
Castile.  
Sancho IV.  
1284.  
Ferdinand  
IV. 1295.  
Alfonso XI.  
1312.

\* Mariana, l. xiii. c. 11.

† Alvarus Castrus patriâ aliquanto antea, uti moris erat, renunciâtâ.—Castris gens per hæc tempora ad Mauros sæpe defecisse



CHAP. IV. were at one time the great rivals for power; but from the time of Alfonso X. the former seems to have declined, and the sole family that came in competition with the Laras during the tempestuous period that followed, was that of Haro, which possessed the lordship of Biscay by an hereditary title. The evils of a weak government were aggravated by the unfortunate circumstances in which Ferdinand IV. and Alfonso XI. ascended the throne; both minors, with a disputed regency, and the interval too short to give ambitious spirits leisure to subside. There is indeed some apology for the conduct of the Laras and Haros in the character of their sovereigns, who had but one favourite method of avenging a dissembled injury, or anticipating a suspected treason. Sancho IV. assassinates Don Lope Haro in his palace at Valladolid. Alfonso XI. invites to court the infant Don Juan, his first cousin, and treats him in the same manner. Such crimes may be found in the history of other countries, but they were no where so usual as in Spain, which was far behind France, England, and even Germany, in civilization.

Peter the  
Cruel.

1350

But whatever violence and arbitrary spirit might be imputed to Sancho and Alfonso, was forgotten in the unexampled tyranny of Peter the Cruel. A suspicion is frequently intimated by Mariana, which seems, in more modern times, to have gained credit, that party malevolence has at least grossly exaggerated the enormities of this prince.\* It is difficult however to believe that a number of

visa est. l. xii. c. 12. See also chapters 17 and 19.

\* There is in general room enough for scepticism as to the characters of men, who are only known to us through their enemies. History is full of calumnies, and of calumnies that can never be effaced. But I really see no ground for thinking charitably of Peter the Cruel. Froissart, part i. c. 230. and Matteo Villani, (in Script. Rerum Italic. t. xiv. p. 43.) the latter of whom died before the rebellion of Henry of Trastamare, speak of him much in the same terms as the Spanish historians. And why should Ayala be doubted, when he gives a long list of murders com-

mitted in the face of day, within the recollection of many persons living when he wrote? There may be a question whether Richard III. smothered his nephews in the Tower; but nobody can dispute that Henry VIII. cut off Anna Bullen's head.

The passage from Matteo Villani above-mentioned is as follows:—Cominciò aspramente a se far ubbidire, perchè temendo de' suoi baroni, trovò modo di far infamare l'uno l'altro, e prendendo cagione, gli cominciò ad uccidere con le sue mani. E in breve tempo ne fece morire 25, e tre suoi fratelli fece morire, &c.



atrocious acts, unconnected with each other, and generally notorious enough in their circumstances, have been ascribed to any innocent man. The history of his reign, chiefly derived, it is admitted, from the pen of an inveterate enemy, Lope de Ayala, charges him with the murder of his wife, Blanche of Bourbon, most of his brothers and sisters, with Eleanor Gusman their mother, many Castilian nobles, and multitudes of the commonalty; besides continual outrages of licentiousness, and especially a pretended marriage with a noble lady of the Castrian family. At length a rebellion was headed by his illegitimate brother Henry, Count of Trastamare, with the assistance of Aragon and Portugal. This however would probably have failed of dethroning Peter, a resolute prince, and certainly not destitute of many faithful supporters, if Henry had not invoked the more powerful succour of Bertrand du Guesclin, and the companies of adventure, who, after the pacification between France and England, had lost the occupation of war, and retained only that of plunder. With mercenaries so disciplined it was in vain for Peter to contend; but, abandoning Spain for a moment, he had recourse to a more powerful weapon from the same armoury. Edward the Black Prince, then resident at Bordeaux, was induced, by the promise of Biscay, to enter Spain as the ally of Castile; and at the great battle of Navarette, he continued lord of the ascendant over those who had so often already been foiled by his prowess. Du Guesclin was made prisoner; Henry fled to Aragon, and Peter remounted the throne. But a second revolution was at hand; the Black Prince, whom he had ungratefully offended, withdrew into Guienne; and he lost his kingdom and life in a second short contest with his brother.

A more fortunate period began with the accession of Henry. His own reign was hardly disturbed by any rebellion; and though his successors John I. and Henry III. were not altogether so unmolested, especially the latter, who ascended the throne in his minority, yet the troubles of their time were slight in comparison with those formerly excited by the houses of Lara and Haro, both

CHAP.  
IV.  
SPAIN.

1367

House of  
Trastamare.  
Henry II.  
1368.  
John I.  
1379.  
Henry III.  
1390.



CHAP. of which were now happily extinct. Though Henry II.'s illegitimacy left him no title but popular choice, his queen was sole representative of the Cerdas, the offspring, as has been mentioned above, of Sancho IV.'s elder brother, and by the extinction of the younger branch, unquestioned heiress of the royal line. And, by the marriage of Henry III. with Catherine, daughter of John of Gaunt and of Constance, an illegitimate child of Peter the Cruel, her pretensions, such as they were, became merged in the crown.

John II. No kingdom could be worse prepared to meet the disorders of a minority as Castile, and in none did the circumstance so frequently recur. John II. was but fourteen months old at his accession ; and but for the disinterestedness of his uncle Ferdinand, the nobility would have been inclined to avert the danger by placing that prince upon the throne. In this instance, however, Castile suffered less from faction during the infancy of her sovereign, than in his maturity. The queen dowager, at first jointly with Ferdinand, and solely after his accession to the crown of Aragon, administered the government with credit. Fifty years had elapsed at her death in 1418, since the elevation of the house of Trastamare, who had entitled themselves to public affection by conforming themselves more strictly than their predecessors to the constitutional laws of Castile, which were never so well established as during this period. In external affairs, their reigns were not what is considered as glorious ; they were generally at peace with Aragon and Granada, but one memorable defeat by the Portuguese at Aljubarrota disgraces the annals of John I. whose cause was as unjust as his arms were unsuccessful. This comparatively golden period ceases at the majority of John II. His reign was filled up by a series of conspiracies and civil wars, headed by his cousins John and Henry, the infants of Aragon, who enjoyed very extensive territories in Castile, by the testament of their father Ferdinand. Their brother the king of Aragon frequently lent the assistance of his arms. John himself, the elder of these two princes, by marriage with the heiress of the kingdom of Navarre, stood in a double relation to



Castile, as a neighbouring sovereign, and as a member of the native oligarchy. These conspiracies were all ostensibly directed against the favourite of John II., Alvaro de Luna, who retained for five and thirty years an absolute controul over his feeble master. The adverse faction naturally ascribed to this powerful minister every criminal intention and all public mischiefs. He was certainly not more scrupulous than the generality of statesmen, and appears to have been rapacious in accumulating wealth. But there was an energy and courage about Alvaro de Luna, which distinguishes him from the cowardly sycophants who usually rise by the favour of weak princes; and Castile probably would not have been happier under the administration of his enemies. His fate is among the memorable lessons of history. After a life of troubles endured for the sake of this favourite, sometimes a fugitive, sometimes a prisoner, his son heading rebellions against him, John II. suddenly yielded to an intrigue of the palace, and adopted sentiments of dislike towards the man he had so long beloved. No substantial charge appears to have been brought against Alvaro de Luna, except that general malversation which it was too late for the king to object to him. The real cause of John's change of affection was, most probably, the insupportable restraint which a weak man is apt to find in that spell of a commanding understanding which he dares not break; the torment of living subject to the ascendant of an inferior, which has produced so many examples of fickleness in sovereigns. That of John II. is not the least conspicuous. Alvaro de Luna was brought to a summary trial and beheaded; his estates were confiscated. He met his death with the intrepidity of Strafford, to whom he seems to have borne some resemblance in character.

John II. did not long survive his minister, dying in 1454, after a reign that may be considered as inglorious, compared with any except that of his successor. If the father was not respected, the son fell completely into contempt. He had been governed by Pacheco marquis of Villena, as implicitly as John by Alvaro de Luna. This influence lasted for some time afterwards. But the king inclining to

CHAP.

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Power and  
fall of Al-  
varo de  
Luna.



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transfer his confidence to the queen Joanna of Portugal, and to one Bertrand de Cueva, upon whom common fame had fixed as her paramour, a powerful confederacy of disaffected nobles was formed against the royal authority. In what degree Henry IV.'s government had been improvident or oppressive towards the people, it is hard to determine. The chiefs of that rebellion, Carillo archbishop of Toledo, the admiral of Castile, a veteran leader of faction, and the marquis of Villena, so lately the king's favourite, were undoubtedly actuated only by selfish ambition and revenge. They deposed Henry in an assembly of their faction at Avila with a sort of theatrical pageantry which has often been described. But modern historians, struck by the appearance of judicial solemnity in this proceeding, are sometimes apt to speak of it as a national act; while on the contrary, it seems to have been reprobated by the majority of the Castilians, as an audacious outrage upon a sovereign, who, with many defects, had not been guilty of any excessive tyranny. The confederates set up Alfonso the king's brother, and a civil war of some duration ensued, in which they had the support of Aragon. The queen of Castile had at this time borne a daughter, whom the enemies of Henry IV. and indeed no small part of his adherents, were determined to treat as spurious. Accordingly, after the death of Alfonso, his sister Isabel was considered as heiress of the kingdom. She might have aspired, with the assistance of the confederates, to its immediate possession; but avoiding the odium of a contest with her brother, Isabel agreed to a treaty, by which the succession was absolutely settled upon her. This arrangement was not long afterwards followed by the union of that princess with Ferdinand, son of the king of Aragon. This marriage was by no means acceptable to a part of the Castilian oligarchy, who had preferred a connexion with Portugal. And as Henry had never lost sight of the interests of one whom he considered, or pretended to consider, as his daughter, he took the first opportunity of revoking his forced disposition of the crown, and restoring the direct line of succession in favour of the princess Joanna. Upon his death, in 1474, the right was to be decided



by arms. Joanna had on her side the common presumptions of law, the testamentary disposition of the late king, the support of Alfonso king of Portugal, to whom she was betrothed, and of several considerable leaders among the nobility, as the young marquis of Villena, the family of Mendoza, and the archbishop of Toledo, who, charging Ferdinand with ingratitude, had quitted a party which he had above all men contributed to strengthen. For Isabella were the general belief of Joanna's illegitimacy, the assistance of Aragon, the adherence of a majority both among the nobles and people, and, more than all, the reputation of ability which both she and her husband had deservedly acquired. The scale was however pretty equally balanced, till the king of Portugal having been defeated at Toro, in 1476, Joanna's party discovered their inability to prosecute the war by themselves, and successively made their submission to Ferdinand and Isabella.

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SPAIN.

The Castilians always considered themselves as subject to a legal and limited monarchy. For several ages, the crown was elective, as in most nations of German origin, within the limits of one royal family.\* In general, of course, the public choice fell upon the nearest heir; and it became a prevailing usage to elect a son during the life-time of his father; till, about the eleventh century, a right of hereditary succession was clearly established. But the form of recognizing the heir apparent's title in an assembly of the cortes has subsisted until our own time.†

Constitution  
of Castile.  
Succession  
of the  
crown.

In the original Gothic monarchy of Spain, civil as well as ecclesiastical affairs were decided in national councils, the acts of many

National  
councils.

\* *Defuncto in pace principe, primates totius regni unâ cum sacerdotibus successorem regni concilio communi constituent.* Concil. Toletan. IV. c. 75. apud Marina, *Teoria de las Cortes*, t. ii. p. 2. This important work, by the author of the *Ensayo Historio-Critico* quoted above, contains an ample digest of the parliamentary law of Castile, drawn from original and, in a great degree, unpublished records. I have been

favoured with the use of a copy, from which I am the more disposed to make extracts, as the book is likely, through its liberal principles, to become almost as scarce in Spain as in England. Marina's former work (the *Ensayo Hist. Crit.*) furnishes a series of testimonies, (c. 66.) to the elective character of the monarchy from Pelayo downwards to the twelfth century.

† *Teoria de las Cortes*, t. ii. p. 7.



CHAP. of which are still extant, and have been published in ecclesiastical  
 IV. collections. To these assemblies the dukes and other provincial  
 SPAIN. governors, and in general the principal individuals of the realm, were  
 summoned along with spiritual persons. This double aristocracy of  
 church and state continued to form the great council of advice and  
 consent in the first ages of the new kingdoms of Leon and Castile.  
 The prelates and nobility, or rather some of the more distinguished  
 nobility, appear to have concurred in all general measures of legisla-  
 tion, as we infer from the preambles of their statutes. It would be  
 against analogy, as well as without evidence, to suppose that any  
 representation of the commons had been formed in the earlier period  
 of the monarchy. In the preamble of laws passed in 1020, and at  
 several subsequent times during that and the ensuing century, we find  
 only the bishops and magnats recited as present. According to the  
 General Chronicle of Spain, deputies from the Castilian towns  
 formed a part of cortes in 1169; a date not to be rejected as incom-  
 patible with their absence in 1178. However, in 1188, the first year  
 of the reign of Alfonso IX., they are expressly mentioned; and from  
 that æra were constant and necessary parts of those general assem-  
 blies.\* It has been seen already, that the corporate towns, or dis-  
 tricts of Castile had early acquired considerable importance; arising  
 less from commercial wealth, to which the towns of other kingdoms  
 were indebted for their liberties, than from their utility in keeping up a  
 military organization among the people. To this they probably owe  
 their early reception into the cortes, as integrant portions of the  
 legislature, since we do not read that taxes were frequently demanded,  
 till the extravagance of later kings and their alienation of the domain  
 compelled them to have recourse to the national representatives.

Admission  
of deputies  
from towns.

Every chief town of a concejo or corporation ought perhaps, by

\* Ensayo Hist. Crit. p. 77. Teoria de las Cortes, t. i. p. 66. Marina seems to have somewhat changed his opinion since the publication of the former work, where he inclines to assert, that the commons were from the

earliest times admitted into the legislature. In 1188, the first year of the reign of Alfonso IX., we find positive mention of la muchedumbre de las cibdades è embiados de cada cibdat.



the constitution of Castile, to have received its regular writ for the election of deputies to cortes.\* But there does not appear to have been, in the best times, any uniform practice in this respect. At the cortes of Burgos, in 1315, we find one hundred and ninety-two representatives from more than ninety towns; at those of Madrid in 1391, one hundred and twenty-six were sent from fifty towns; and the latter list contains names of several places which do not appear in the former.† No deputies were present from the kingdom of Leon in the cortes of Alcala in 1348, where, among many important enactments, the code of the Siete Partidas first obtained a legislative recognition.‡ We find, in short, a good deal more irregularity than during the same period in England, where the number of electing boroughs varied pretty considerably at every parliament. Yet the cortes of Castile did not cease to be a numerous body and a fair representation of the people till the reign of John II. The first princes of the house of Trastamare had acted in all points with the advice of their cortes. But John II., and still more his son Henry IV., being conscious of their own unpopularity, did not venture to meet a full assembly of the nation. Their writs were directed only to certain towns; an abuse for which the looseness of preceding usage had given a pretence.§ It must be owned that the people took it in general patiently enough. Many of the corporate towns, impoverished by civil warfare and other causes, were glad to save the cost of defraying their deputies' expenses. Thus, by the year 1480, only seventeen cities retained the privilege of representation. A vote was afterwards added for Granada, and three more in later times for Palencia, and the provinces of Estremadura and Galicia.||

\* Teoria de las Cortes, p. 139.

† Idem, p. 148. Geddes gives a list of one hundred and twenty-seven deputies from forty-eight towns to the cortes at Madrid in 1390. Miscellaneous Tracts, vol. iii.

‡ Id. p. 154.

§ Sepades, (says John II. in 1442.) que en el ayuntamiento que yo fice en la noble villa de Valladolid.....los procuradores de

ciertas cibdades è villas de mis reynos que por mi mandado fueron llamados. This language is repeated as to subsequent meetings. p. 156.

|| The cities which retain their representation in cortes, if the present tense may still be used even for these ghosts of ancient liberty in Spain, are Burgos, Toledo, (there was a constant dispute for precedence between these



CHAP. IV.  It might have been easy perhaps to redress this grievance, while the exclusion was yet fresh and recent. But the privileged towns, with a mean and preposterous selfishness, although their zeal for liberty was at its height, could not endure the only means of effectually securing it, by a restoration of elective franchises to their fellow-citizens. The cortes of 1506 assert, with one of those bold falsifications upon which a popular body sometimes ventures, that "it is established by some laws and by immemorial usage that eighteen cities of these kingdoms have the right of sending deputies to cortes, and no more;" remonstrating against the attempts made by some other towns to obtain the same privilege, which they request may not be conceded. This remonstrance is repeated in 1512.\*

From the reign of Alfonso XI. who restrained the government of corporations to an oligarchy of magistrates, the right of electing members of cortes was confined to the ruling body, the bailiffs or regidores, whose number seldom exceeded twenty-four, and whose succession was kept up by close election among themselves.† The people therefore had no direct share in the choice of representatives. Experience proved, as several instances in these pages will shew, that even upon this narrow basis, the deputies of Castile were not deficient in zeal for their country and its liberties. But it must be confessed, that a small body of electors is always liable to corrupt influence and to intimidation. John II. and Henry IV. often invaded the freedom of election; the latter even named some of the deputies.‡ Several energetic remonstrances were made in cortes against this flagrant grievance. Laws were enacted and other precautions devised to secure the due return of deputies. In the sixteenth century, the evil of course was aggravated. Charles and

two,) Leon, Granada, Cordova, Murcia, Jaen, Zamora, Toro, Soria, Valladolid, Salamanca, Segovia, Avila, Madrid, Guadalaxara and Cuenca. The representatives of these were supposed to vote not only for their immediate constituents, but for other adjacent towns. Thus Toro voted for Palencia and

the kingdom of Galicia, before they obtained separate votes; Salamanca for most of Estremadura; Guadalaxara for Siguenza and four hundred other towns. p. 160. 268.

\* Idem, p. 161.

† p. 86. 197.

‡ p. 199.



Philip corrupted the members by bribery.\* Even in 1573 the cortes CHAP. IV. complain, that creatures of government were sent thither, “ who are always held for suspected by the other deputies, and cause disagreement among them.”†

SPAIN.

There seems to be a considerable obscurity about the constitution of the cortes, so far as relates to the two higher estates, the spiritual and temporal nobility. It is admitted that down to the latter part of the thirteenth century, and especially before the introduction of representatives from the commons, they were summoned in considerable numbers. But the writer, to whom I must almost exclusively refer for the constitutional history of Castile, contends, that from the reign of Sancho IV., they took much less share, and retained much less influence in the deliberations of cortes.‡ There is a remarkable protest of the archbishop of Toledo in 1295 against the acts done in cortes, because neither he nor the other prelates had been admitted to their discussions, nor given any consent to their resolutions, although such consent was falsely recited in the laws enacted therein.§ This protestation is at least a testimony to the constitutional rights of the prelacy, which indeed all the early history of Castile, as well as the analogy of other governments, conspire to demonstrate. In the fourteenth and fifteenth centuries, however, they were more and more excluded. None of the prelates were summoned to the cortes of 1299 and 1301; none either of the prelates or nobles to those of 1370 and 1373, of 1480 and 1505. In

Spiritual  
and tempo-  
ral nobility  
in cortes.

\* Teoria de las Cortes, p. 213.

† p. 202.

‡ p. 67.

§ Protestamos que desde aquí venimos non fuemos llamados a consejo, ni à los tratados sobre los fechos del reyno, ni sobre las otras cosas que hí fueren tractadas et fechas et sennaladamente sobre los fechos de los concejos de las hermandades, et de las peticiones que fueron fechas de su parte, et sobre los otorgamentos que les hicieron, et sobre los previlegios que por esta razon

les fueron otorgados; mas ante fuemos ende apartados et estrannados et sacados expresamente nos et los otros perlados et ricos homes et los fijosdalgo; et non fue hí cosa fecha con nuestro consejo. Otrosí protestamos por razon de aquello que dice en los previlegios que les otorgaron, que fueren los perlados llamados, et que eran otorgados de consentimiento et de voluntad dellos, que non fuemos hí presentes ni llamados nin fuè fecho con nuestra voluntad, nin consentimos, nin consentimos en ellos, &c. p. 72.



CHAP. all the latter cases, indeed, such members of both orders as hap-  
 IV. pened to be present in the court attended the cortes; a fact, which  
 SPAIN. seems to be established by the language of the statutes.\* Other  
 instances of a similar kind may be adduced. Nevertheless, the  
 more usual expression in the preamble of laws, reciting those sum-  
 moned to, and present at the cortes, though subject to considerable  
 variation, seems to imply that all the three estates were, at least  
 nominally and according to legitimate forms, constituent members  
 of the national assembly. And a chronicle mentions, under the  
 year 1406, the nobility and clergy as deliberating separately, and  
 with some difference of judgement, from the deputies of the com-  
 mons.† Those who know the constitutional antiquities of England  
 must be aware how little mention we find of the lords' house of

\* Teoria de las Cortes, p. 74.

† t. ii. p. 234. Marina is influenced by a prejudice in favour of the abortive Spanish constitution of 1812, which excluded the temporal and spiritual aristocracy from a place in the legislature, to imagine a similar form of government in ancient times. But his own work furnishes abundant reasons, if I am not mistaken, to modify this opinion very essentially. A few out of many instances may be adduced from the enacting words of statutes, which we consider in England as good evidences to establish a constitutional theory. Sepades que yo hobé mio acuerdo e mio consejo con mios hermanos e los arzobispos, e los obispos e con los ricos homes de Castilla e de Leon, e con homes buenos de las villas de Castilla e de Leon, que fueron conmigo en Valladolid, sobre muchas cosas, &c. (Alfonso X. in 1258.) Mandamos enviar llamar por cartas del rei e nuestras a los infantes e perlados e ricos homes e infanzones e caballeros e homes buenos de las cibdades e de las villas de los reynos de Castilia e de Toledo e de Leon e de las Estremaduras, e de Gallicia e de las Asturias e del Andalusia: (Writ of summons to cortes of Burgos in 1315;) Con acuerdo de los perlados e de los ricos homes e procuradores de las cibdades e vilias e logares

de los nuestros reynos: (Ordinances of Toro in 1371.) Estando hí con él el infante Don Ferrando, &c. e otros perlados e condes e ricos homes e otros del consejo del señor rei, e otros caballeros e escuderos, e los procuradores de las cibdades e villas e logares de sus reynos: (Cortes of 1391.) Los tres estados que deben venir a las cortes e ayuntamientos segunt se debe facer è es de buena costumbre antigua: (Cortes of 1393.) This last passage is apparently conclusive to prove, that three estates, the superior clergy, the nobility, and the commons, were essential members of the legislature in Castile, as they were in France and England; and one is astonished to read in Marina, that no faltaron a ninguna de las formalidades de derecho los monarcas que no tuvieron por oportuno llamar à cortes para semejantes actos ni al clero ni à la nobleza ni à las personas singulares de uno y otro estado. t. i. p. 69. That great citizen, Jovellanos, appears to have had much wiser notions of the ancient government of his country, as well as of the sort of reformation which she wanted; as we may infer from passages in his Memoria à sus compatriotas, Coruña 1811, quoted by Marina for the purpose of censure.



parliament in our histories, or even in our records. A theory which should exclude the great territorial aristocracy from their place in cortes, would expose the dignity and legislative rights of that body to unfavourable inferences. But it is manifest, that the king exercised very freely a prerogative of calling or omitting persons of both the higher orders at his discretion. The bishops were numerous, and many of their sees not rich ; while the same objections of inconvenience applied perhaps to the ricosombres, but far more forcibly to the lower nobility, the *hijosdalgo* or *caballeros*. Castile never adopted the institution of deputies from this order, as in the States General of France and some other countries ; much less that liberal system of landed representation, which forms one of the most admirable peculiarities in our own constitution. It will be seen hereafter, that spiritual and even temporal peers were summoned by our kings with much irregularity ; and the disordered state of Castile through almost every reign was likely to prevent the establishment of any fixed usage in this and most other points. But the absolute exclusion of the prelates and nobility from the cortes can hardly have been defensible on any constitutional rule, and must, one would imagine, have affected the legality of those few assemblies where it occurred.

The primary and most essential characteristic of a limited monarchy is, that money can only be levied upon the people through the consent of their representatives. This principle was thoroughly established in Castile ; and the statutes which enforce it, the remonstrances which protest against its violation, bear a lively analogy to corresponding circumstances in the history of our constitution. The lands of the nobility and clergy were, I believe, always exempted from direct taxation ; an immunity which perhaps rendered the attendance of the members of those estates in the cortes less regular. The corporate districts, or *concejos*, which, as I have observed already, differed from the communities of France and England by possessing a large extent of territory, subordinate to the principal town, were bound by their charter to a stipulated

CHAP.  
IV.  
SPAIN.

Right of  
taxation.



CHAP. annual payment, the price of their franchises, called moneda forera.\*

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Beyond this sum nothing could be demanded without the consent of the cortes. Alfonso VIII. in 1177, applied for a subsidy towards carrying on the siege of Cuenca. Demands of money do not however seem to have been very usual before the prodigal reign of Alfonso X. That prince and his immediate successors were not much inclined to respect the rights of their subjects; but they encountered a steady and insuperable resistance. Ferdinand IV., in 1307, promises to raise no money beyond his legal and customary dues. A more explicit law was enacted by Alfonso XI. in 1328, who bound himself not to exact from his people, or cause them to pay any tax, either partial or general, not hitherto established by law, without the previous grant of all the deputies convened to the cortes.† This abolition of illegal impositions was several times confirmed by the same prince. The cortes, in 1393, having made a grant to Henry III., annexed this condition, that "since they had granted him enough for his present necessities, and even to lay up a part for a future exigency, he should swear before one of the archbishops not to take or demand any money, service or loan, or any thing else of the cities and towns, nor of individuals belonging to them, on any pretence of necessity, until the three estates of the kingdom should first be duly summoned and assembled in cortes according to ancient usage. And if any such letters requiring money have been written, that they shall be *obeyed and not complied with.*"‡ His son John II. having violated this constitutional privi-

\* Marina, Ensayo Hist. Crit. cap. 158. Teoria de las Cortes, t. ii. p. 387. This is expressed in one of their fueros, or charters: *Liberi et ingenui semper maneatis reddendo mihi et successoribus meis in unoquoque anno in die Pentecostes de unaquaque domo 12 denarios; et nisi cum bonâ voluntate vestrâ feceritis, nullum alium servitium faciatis.*

† De los non echar nin mandar pagar pecho desaforado ninguno, especial nin ge-

neral, en toda mi tierra, sin ser llamados primeramente a cortes, è otorgado por todos los procuradores que hi venieren. p. 388.

‡ Obedecidas è non cumplidas. This expression occurs frequently in provisions made against illegal acts of the crown; and is characteristic of the singular respect with which the Spaniards always thought it right to treat their sovereign, while they were resisting the abuses of his authority.



lege on the allegation of a pressing necessity, the cortes in 1420 presented a long remonstrance, couched in very respectful, but equally firm language, wherein they assert "the good custom founded in reason and in justice, that the cities and towns of your kingdoms shall not be compelled to pay taxes or requisitions or other new tribute, unless your highness order it by advice and with the grant of the said cities and towns, and of their deputies for them." And they express their apprehension lest this right should be infringed, because, as they say, "there remains no other privilege or liberty which can be profitable to subjects, if this be shaken."\* The king gave them as full satisfaction as they desired, that his encroachment should not be drawn into precedent. Some fresh abuses, during the unfortunate reign of Henry IV., produced another declaration in equally explicit language; forming part of the sentence awarded by the arbitrators to whom the differences between the king and his people had been referred at Medina del Campo in 1465.† The catholic kings, as they are eminently called, Ferdinand and Isabella, never violated this part of the constitution; nor did even Charles I., although sometimes refused money by the cortes, attempt to exact it without their consent.‡ In the Recopilacion, or code of Castilian law, published by Philip II., we read a positive declaration against arbitrary imposition of taxes, which remained unaltered on the face

CHAP.  
IV.  
SPAIN.

\* La buena costumbre è possession fundada en razon è en justicia que las cibdades e villas de vuestros reynos tenian de no ser mandado coger monedas è pedidos nin otro tributo nuevo alguno en los vuestros reynos sin que la vuestra señoria lo faga e ordene de consejo e con otorgamiento de las cibdades è villas de los vuestros reynos è de sus procuradores en su nombre \* \* \* \* \* no queda otro privilegio ni libertad de que los subditos puedan gozar ni aprovechar quebrantado el sobre dicho. t. iii. p. 30.

† Declaramos è ordenamos, que el dicho señor rei nin los otros reyes que despues del fueren non echan nin repartan nin pidan pedidos nin monedas en sus reynos, salvo por gran necesidad, è seyendo primero

acordado con los perlados è grandes de sus reynos, e con los otros que a la sazón residieren en su consejo, e seyendo para ello llamados los procuradores de las cibdades e villas de sus reynos, que para las tales cosas se suelen è acostumbran llamar è seyendo per los dichos procuradores otorgado el dicho pedimento è monedas. t. ii. p. 391.

‡ Marina has published two letters from Charles to the city of Toledo, in 1542 and 1548, requesting them to instruct their deputies to consent to a further grant of money, which they had refused to do without leave of their constituents. t. iii. p. 180. 187.



CHAP. of the statute-book till the present age.\* The law was indeed  
 IV. frequently broken by Philip II.; but the cortes, who retained  
 SPAIN. throughout the sixteenth century a degree of steadiness and courage,  
 truly admirable, when we consider their political weakness, did not  
 cease to remonstrate with that suspicious tyrant, and recorded their  
 unavailing appeal to the law of Alfonso XI., "so ancient and just  
 and which so long time has been used and observed."†

Controul of  
 cortes over  
 expendi-  
 ture.

The free assent of the people by their representatives to grants of money was by no means a mere matter of form. It was connected with other essential rights, indispensable to its effectual exercise; those of examining public accounts and checking the expenditure. The cortes, in the best times at least, were careful to grant no money until they were assured that what had been already levied on their constituents had been properly employed.‡ They refused a subsidy of 1390, because they had already given so much, and "not knowing how so great a sum had been expended, it would be a great dishonour and mischief to promise any more." In 1406 they stood out a long time, and at length gave only half of what was demanded.§ Charles I. attempted to obtain money in 1527 from the nobility, as well as commons. But the former protested, that "their obligation was to follow the king in war, wherefore to contribute money was totally against their privilege, and for that reason they could not

\* t. ii. p. 393.

† En las cortes del año de 70 y en las de 76 pedimos a v. m. fuese servido de no poner nuevos impuestos, rentas, pechos, ni derechos ni otros tributos particulares ni generales sin junta del reyno en cortes, como está dispuesto por lei del señor rei Don Alonso y se significò a v. m. el daño grande que con las nuevas rentas habia rescibido el reyno, suplicando a v. m. fuese servido de mandarle aliviar y descargar, y que en lo de adelante se les hiciesse merced de guardar las dichas leyes reales y que no se impusiesen nuevas rentas sin su asistencia; pues podria v. m. estar satisfecho de que el reyno sirve en las cosas necessarias con toda

lealtad y hasta ahora no se ha proveido lo susodicho: y el reyno por la obligacion que tiene a pedir a v. m. guarde la dicha lei, y que no solamente han cessado las necessidades de los subditos y naturales de v. m. pero antes crecen de cada dia: vuelve a suplicar a v. m. sea servido concederle lo susodicho, y que las nuevas rentas, pechos y derechos se quiten, y que de aquí adelante se guarde la dicha lei del señor rei don Alonso, como tan antigua y justa y que tanto tiempo se usó y guardó.—p. 395. This petition was in 1579.

‡ p. 404. 406.

§ p. 409.



acquiesce in his majesty's request."\* The commons also refused upon this occasion. In 1538, on a similar proposition, the superior and lower nobility (los grandes y caballeros) "begged with all humility that they might never hear any more of that matter."†

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The contributions granted by cortes were assessed and collected by respectable individuals (hombres buenos) of the several towns and villages.‡ This *repartition*, as the French call it, of direct taxes, is a matter of the highest importance in those countries where they fall upon property not capable of being unequivocally ascertained. The produce was paid to the royal council. It could not be applied to any other purpose than that to which the tax had been appropriated. Thus the cortes of Segovia in 1407 granted a subsidy for the war against Granada on condition "that it should not be laid out on any other service except this war;" which they requested the queen and Ferdinand, both regents in John II.'s minority, to confirm by oath. Part however of the money remaining unexpended, Ferdinand wished to apply it to his own object of procuring the crown of Aragon; but the queen first obtained not only a release from her oath by the pope, but the consent of the cortes. They continued to insist upon this appropriation, though ineffectually, under the reign of Charles I.§

The cortes did not consider it beyond the line of their duty, notwithstanding the respectful manner in which they always addressed the sovereign, to remonstrate against profuse expenditure even in his own household. They told Alfonso X. in 1258, in the homely style of that age, that they thought it fitting that the king and his wife should eat at the rate of a hundred and fifty maravedis a day, and no more; and that the king should order his attendants to eat more moderately than they did.|| They remonstrated more forcibly against the prodigality of John II. Even in 1559, they spoke with

\* Pero que contribuir a la guerra con ciertas sumas era totalmente opuesto à sus privilegios, è asi que no podrian acomodarse à lo que s. m. deseaba.—p. 411.

† Ibid.

‡ p. 398.

§ p. 412.

|| p. 417.



CHAP. an undaunted Castilian spirit to Philip II.: "Sir, the expenses of  
 IV. your royal establishment and household are much increased; and  
 SPAIN. we conceive it would much redound to the good of these kingdoms, that your majesty should direct them to be lowered, both as a relief to your wants and that all the great men and other subjects of your majesty may take example therefrom to restrain the great disorder and excess they commit in that respect."\*

Forms of the  
 cortes.

The forms of a Castilian cortes were quite analogous to those of an English parliament in the fourteenth century. They were summoned by a writ almost exactly coincident in expression with that in use among us.† The session was opened by a speech from the chancellor or other chief officer of the court. The deputies were invited to consider certain special business, and commonly to grant money.‡ After the principal affairs were dispatched, they conferred together, and having examined the instructions of their respective constituents, drew up a schedule of petitions. These were duly answered one by one, and from the petition and answer, if favourable, laws were afterwards drawn up, where the matter required a new law, or promises of redress were given, if the petition related to an abuse or grievance. In the struggling condition of Spanish liberty under Charles I., the crown began to neglect answering the petitions of cortes, or to use unsatisfactory generalities of expression. This gave rise to many remonstrances. The deputies insisted in 1523 on having answers before they granted money. They repeated the same contention in 1525, and obtained a general law, inserted in the Recopilacion, enacting that the king should answer all their petitions before he dissolved the assembly.§ This however was disregarded as before; but the cortes, whose intrepid honesty under

\* Señor, los gastos de vuestro real estado y mesa son muy crescidos, y entendemos que convernía mucho al bien de estos reinos que v. m. los mandasse moderar así para algun remedio de sus necessidades como para que de v. m. tomen egemplo todos los grandes y caballeros y otros subditos de

v. m. en la gran desorden y excessos que hacen en las cosas sobredichas.—p. 427.

† t. i. p. 175. t. iii. p. 103.

‡ t. i. p. 278.

§ p. 301.



Philip II. so often attracts our admiration, continued, as late as 1586, to appeal to the written statute and lament its violation.\*

According to the ancient fundamental constitution of Castile, the king did not legislate for his subjects without their consent. The code of the Visigoths, called in Spain the *Fuero Jusgo*, was enacted in public councils, as were also the laws of the early kings of Leon, which appears by the reciting words of their preambles.† This consent was originally given only by the higher estates, who might be considered, in a large sense, as representing the nation, though not chosen by it; but from the end of the twelfth century, by the elected deputies of the commons in cortes. The laws of Alfonso X. in 1258, those of the same prince in 1274, and many others in subsequent times, are declared to be made with the consent (*con acuerdo*) of the several orders of the kingdom. More commonly indeed, the preamble of Castilian statutes only recites their advice (*consejo*); but I do not know that any stress is to be laid on this circumstance. The laws of the *Siete Partidas*, compiled by Alfonso X., did not obtain any direct sanction till the famous cortes of Alcala in 1348, when they were confirmed along with several others, forming altogether the basis of the statute-law of Spain.‡ Whether they were in fact received before that time, has been a matter controverted among Spanish antiquaries; and upon the question of their legal validity at the time of their promulgation, depends an important point in Castilian history, the disputed right of succession between Sancho IV. and the infants of la Cerda; the former claiming under the ancient customary law, the latter under

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Right of  
cortes in  
legislation.

\* p. 288—304.

† t. ii. p. 202. The acts of the cortes of Leon in 1020 run thus: *omnes pontifices et abbates et optimates regni Hispaniæ jussu ipsius regis talia decreta decrevimus quæ firmiter teneantur futuris temporibus*. So those of Salamanca in 1178: *Ego rex Fernandus inter cætera quæ cum episcopis et abbatibus regni nostri et quamplurimis aliis religiosiis, cum comitibus terrarum et princi-*

*pibus et rectoribus provinciarum toto posse tenenda statuimus apud Salamancam.*

‡ *Ensayo Hist. Crit.* p. 353. *Teoria de las Cortes*, t. ii. p. 77. Marina seems to have changed his opinion between the publication of these two works, in the former of which he contends for the previous authority of the *Siete Partidas*, and in favour of the infants of la Cerda.



CHAP. the new dispositions of the Siete Partidas. If the king could not  
 IV. legally change the established laws without consent of his cortes,  
 SPAIN. as seems most probable, the right of representative succession did  
 not exist in favour of his grand-children, and Sancho IV. cannot be  
 considered as an usurper.

It appears upon the whole to have been a constitutional principle, that laws could neither be made nor annulled except in cortes. In 1506, this is claimed by the deputies as an established right.\* John the First had long before admitted, that what was done by cortes and general assemblies could not be undone by letters missive, but by such cortes and assemblies alone.† For the kings of Castile had adopted the English practice, of dispensing with statutes by a non obstante clause in their grants. But the cortes remonstrated more steadily against this abuse than our own parliament, who suffered it to remain in a certain degree till the revolution. It was several times enacted upon their petition, especially by an explicit statute of Henry II., that grants and letters patent dispensing with statutes should not be obeyed.‡ Nevertheless John II., trusting to force or the servility of the judges, had the assurance to dispense explicitly with this very law.§ The cortes of Valladolid in 1442 obtained fresh promises and enactments against such an abuse. Philip I. and Charles I. began to legislate without asking the consent of cortes; this grew much worse under Philip II., and reached its height under his successors, who entirely abolished all constitutional privileges.|| In 1555, we find a petition that laws made in cortes should be revoked no where else. The reply was

\* Los reyes establecieron que quando habiessen de hacer leyes, para que fuessen provechosas à sus reynos y cada provincias fuesen proveidas, se llamasen cortes y procuradores que entendiesen en ellas y por esto se estableció lei que no se hiciesen ni renovasen leyes sino en cortes. t. ii. p. 218.

† Lo que es fecho por cortes è por ayuntamientos que non se pueda desfacer por las tales cartas, salvo por ayuntamientos è cortes. p. 215.

‡ p. 215.

§ p. 216. t. iii. p. 40.

|| t. ii. p. 218.



such as became that age : "To this we answer, that we shall do what best suits our government." But even in 1619, and still afterwards, the patriot representatives of Castile continued to lift an unavailing voice against illegal ordinances, though in the form of very humble petition ; perhaps the latest testimonies to the expiring liberties of their country.\* The denial of exclusive legislative authority to the crown must, however, be understood to admit the legality of particular ordinances, designed to strengthen the king's executive government.† Those, no doubt, like the royal proclamations in England, extended sometimes very far, and subjected the people to a sort of arbitrary coercion much beyond what our enlightened notions of freedom would consider as reconcileable to it. But in the middle ages, such temporary commands and prohibitions were not reckoned strictly legislative, and passed, perhaps rightly, for inevitable consequences of a scanty code, and short sessions of the national council.

The kings were obliged to swear to the observance of laws enacted in cortes, besides their general coronation oath to keep the laws and preserve the liberties of their people. Of this we find several instances from the middle of the thirteenth century ; and the practice continued till the time of John II., who, in 1433, on being requested to swear to the laws then enacted, answered, that he intended to maintain them, and consequently no oath was necessary ; an evasion, in which the cortes seem unaccountably to have acquiesced.‡ The guardians of Alfonso XI. not only swore to observe all that had been agreed on at Burgos in 1315, but consented that if any one of them did not keep his oath, the people should no longer be obliged to regard or obey him as regent.§

It was customary to assemble the cortes of Castile for many

\* Ha suplicado el reino á v. m. no se promulguen nuevas leyes, ni en todo ni en parte las antiguas se alteren sin que sea por cortes . . . y por ser de tanta importancia vuelve el reino á suplicarlo humilmente a v. m.—p. 220.

† p. 207.

‡ t. i. p. 306.

§ t. iii. p. 62.



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SPAIN.

Other rights  
of the  
cortes.

purposes, besides those of granting money and concurring in legislation. They were summoned in every reign to acknowledge and confirm the succession of the heir apparent; and upon his accession to swear allegiance.\* These acts were however little more than formal, and accordingly have been preserved for the sake of parade, after all the real dignity of the cortes was annihilated. In the fourteenth and fifteenth centuries, they claimed and exercised far more ample powers than our own parliament ever enjoyed. They assumed the right, when questions of regency occurred, to limit the prerogative, as well as to designate the persons who were to use it.† And the frequent minorities of Castilian kings, which were unfavourable enough to tranquillity and subordination, served to confirm those parliamentary privileges. The cortes were usually consulted upon all material business. A law of Alfonso XI. in 1328, printed in the Recopilacion or code published by Philip II., declares, “ Since in the arduous affairs of our kingdom, the counsel of our natural subjects is necessary, especially of the deputies from our cities and towns, therefore we ordain and command that on such great occasions the cortes shall be assembled, and counsel shall be taken of the three estates of our kingdoms, as the kings our forefathers have been used to do.”‡ A cortes of John II. in 1419 claimed this right of being consulted in all matters of importance, with a warm remonstrance against the alledged violation of so wholesome a law by the reigning prince; who answered that in weighty matters he had acted, and would continue to act, in conformity to it.§ What should be intended by great and weighty affairs might be not at all agreed upon by the two parties; to each of whose interpretations these words gave pretty full scope. However, the current usage of the monarchy certainly permitted much authority in public deliberations to the cortes. Among other instances, which indeed will continually be found in the common civil histories, the

\* t. i. p. 33. t. ii. p. 24.

† p. 230.

‡ t. i. p. 31.

§ p. 34.



cortes of Ocana in 1469, remonstrate with Henry IV. for allying himself with England rather than France, and give, as the first reason of complaint, that "according to the laws of your kingdom, when the kings have any thing of great importance in hand, they ought not to undertake it without advice and knowledge of the chief towns and cities of your kingdoms."\* This privilege of general interference was asserted, like other ancient rights, under Charles, whom they strongly urged in 1548, not to permit his son Philip to depart out of the realm.† It is hardly necessary to observe, that in such times they had little chance of being regarded.

The kings of Leon and Castile acted, during the interval of the cortes, by the advice of a smaller council, answering, as it seems, pretty exactly to the king's ordinary council in England. In early ages, before the introduction of the commons, it is sometimes difficult to distinguish this body from the general council of the nation; being composed in fact of the same class of persons, though in smaller numbers. A similar difficulty applies to the English history. The nature of their proceedings seems best to ascertain the distinction. All executive acts, including those ordinances which may appear rather of a legislative nature; all grants and charters are declared to be with the assent of the court (curia), or of the magnats of the palace, or of the chiefs or nobles.‡ This privy council was an essential part of all European monarchies. And, though the sovereign might be considered as free to call in the advice of whomsoever he pleased, yet in fact the princes of the blood and most powerful nobility had anciently a constitutional right to be members of such a council; so that it formed a very material check upon his personal authority.

The council underwent several changes in progress of time, which

\* Porque segunt leyes de nuestros reynos quando los reyes han de facer alguna cosa de gran importancia non lo deben facer sin consejo è sabiduria de las cibdades è villas principales de vuestros reynos. t. ii. p. 241.

† t. iii. p. 183.

‡ Cum assensu magnatum palatii: Cum consilio curiæ meæ: Cum consilio et beneplacito omnium principum meorum, nullo contradicente nec reclamante. p. 325.



CHAP. it is not necessary to enumerate. It was justly deemed an im-  
 IV. portant member of the constitution, and the cortes shewed a  
 SPAIN. laudable anxiety to procure its composition in such a manner as to  
 form a guarantee for the due execution of laws after their own  
 dissolution. Several times, especially in minorities, they even named  
 its members, or a part of them; and in the reigns of Henry III. and  
 John II. they obtained the privilege of adding a permanent depu-  
 tation, consisting of four persons elected out of their own body,  
 annexed as it were to the council, who were to continue at the court  
 during the interval of cortes, and watch over the due observance of  
 the laws.\* This deputation continued, as an empty formality, in  
 the sixteenth century. In the council the king was bound to sit  
 personally three days in the week. Their business, which included  
 the whole executive government, was distributed with considerable  
 accuracy into what might be dispatched by the council alone,  
 under their own seals and signatures, and what required the royal  
 seal.† The consent of this body was necessary for almost every act  
 of the crown, for pensions or grants of money, ecclesiastical and  
 political promotions, and for charters of pardon, the easy con-  
 cession of which was a great encouragement to the homicides so  
 usual in those ages, and was restrained by some of our own laws.‡  
 But the council did not exercise any judicial authority, if we may  
 believe the well informed author, from whom I have learned these  
 particulars; unlike in this to the ordinary council of the kings of  
 England. It was not until the days of Ferdinand and Isabella, that  
 this among other innovations was introduced.§

Administra-  
 tion of jus-  
 tice.

Civil and criminal justice was administered in the first instance  
 by the alcaides or municipal judges of towns; elected within them-  
 selves originally by the community at large, but, in subsequent  
 times, by the governing body. Of territorial jurisdiction, properly  
 so called, I have not discovered any vestiges in Castile; and indeed

\* Teoria de las Cortes, t. ii. p. 346.

† p. 354.

‡ p. 360. 362. 372.

§ p. 375. 379.



the laws of Alfonso X. appear to prove that it did not exist.\* Powerful as the aristocracy were in that kingdom, they were not a feudal aristocracy; and territorial rights of justice sprang out of the feudal system. The kings, however, began in the thirteenth century to appoint judges of their own, called corregidores, a name which seems to express concurrent jurisdiction with the regidores, or ordinary magistrates.† The cortes frequently remonstrated against this encroachment. Alfonso XI. consented to withdraw his judges from all corporations by which he had not been requested to appoint them.‡ Some attempts to interfere with the municipal authorities of Toledo produced serious disturbances under Henry III. and John II.§ Even where the king appointed magistrates at a city's request, he was bound to select them from among the citizens.|| From this immediate jurisdiction, an appeal lay to the adelantado, or governor of the province, and from thence to the tribunal of royal alcaldes.¶ The latter however could not take cognizance of any cause depending before the ordinary judges; a contrast to the practice of Aragon, where the justiciary's right of evocation (*juris firma*) was considered as a principal safeguard of public liberty.\*\* As a court of appeal, the royal alcaldes had the supreme jurisdiction. The king could only cause their sentence to be revised; but neither alter nor revoke it.†† They have continued to the present day as a criminal tribunal; but civil appeals were transferred by the ordinances of Toro in 1371 to a new court, styled the king's audience, which, though deprived under Ferdinand and his successors of part of its jurisdiction, still remains one of the principal judicatures in Castile.‡‡

No people in a half-civilized state of society have a full practical

Violent actions of some kings of Castile.

\* Las Siete Partidas, fol. 241.

† Alfonso X. says: Ningun ome sea osado juzgar pleytos, se no fuere alcalde puesto por el rey. id. fol. 27. This seems an encroachment on the municipal magistrates.

‡ Teoria de las Cortes, p. 251.

§ p. 252. Mariana, l. xx. c. 13.

|| p. 255.

¶ p. 266.

\*\* p. 260.

†† p. 287. 304.

‡‡ p. 292—302.



CHAP. security against particular acts of arbitrary power. They were  
 IV. more common perhaps in Castile than in any other European  
 SPAIN. monarchy, which professed to be free. Laws indeed were not wanting to protect men's lives and liberties, as well as their properties. Ferdinand IV. in 1299, agreed to a petition that "justice shall be executed impartially according to law and right; and that no one shall be put to death or imprisoned, or deprived of his possessions without trial, and that this be better observed than heretofore."\* He renewed the same law in 1307. Nevertheless, the most remarkable circumstance of this monarch's history was a violation of so sacred and apparently so well established a law. Two gentlemen having been accused of murder, Ferdinand, without waiting for any process, ordered them to instant execution. They summoned him with their last words to appear before the tribunal of God in thirty days; and his death within the time, which has given him the surname of the Summoned, might, we may hope, deter succeeding sovereigns from iniquity so flagrant. But from the practice of causing their enemies to be assassinated, neither law nor conscience could withhold them. Alfonso XI. was more than once guilty of this crime. Yet he too passed an ordinance in 1325 that no warrant should issue for putting any one to death, or seizing his property, till he should be duly tried by course of law. Henry II. repeats the same law in very explicit language.† But the civil history of Spain displays several violations of it. An extraordinary prerogative of committing murder appears to have been admitted, in early times, by several nations who did not acknowledge unlimited power in their sovereign.‡ Before any regular police was

\* Que mandase facer la justicia en aquellos que la merecen comunamente con fuero é con derecho; é los homes que non sean muertos nin presos nin tomados lo que han sin ser oidos por derecho ó por fuero de aquel logar do acaesciere, é que sea guardado mejor que se guardó fasta aquí. Marina, Ensayo Hist. Critico, p. 148.

† Que non mandemos matar nin prender

nin lisiar nin despechar nin tomar à alguno ninguna cosa de lo suyo, sin ser anté llamado é oido é vencido por fuero e por derecho, por querella nin por querellas que a nos fuesen dadas, segunt que esto está ordenado por el rei don Alonso nuestro padre. Teoria de las Cortes, t. ii. p. 287.

‡ Si quis hominem per jussionem regis vel ducis sui occiderit, non requiratur ei, nec



established, a powerful criminal might have been secure from all punishment, but for a notion, as barbarous as any which it served to counteract, that he might be lawfully killed by the personal mandate of the king. And the frequent attendance of sovereigns in their courts of judicature might lead men not accustomed to consider the indispensable necessity of legal forms, to confound an act of assassination with the execution of justice.

CHAP.  
IV.  
SPAIN.

Though it is very improbable that the nobility were not considered as essential members of the cortes, they certainly attended in smaller numbers, than we should expect to find from the great legislative and deliberative authority of that assembly. This arose chiefly from the lawless spirit of that martial aristocracy, which placed less confidence in the constitutional methods of resisting arbitrary encroachment, than in its own armed combinations.\* These confederacies to obtain redress of grievances by force, of which there were five or six remarkable instances, were called hermandad (brotherhood or union), and though not so explicitly sanctioned as they were by the celebrated Privilege of Union in Aragon, found continuance in a law of Alfonso X. which cannot be deemed so much to have voluntarily emanated from that prince, as to be a record of original rights possessed by the Castilian nobility. "The duty of subjects towards their king," he says, "enjoins them not to permit him knowingly to endanger his salvation, nor to incur dishonour and inconvenience in his person or family, nor to produce mischief to his kingdom. And this may be fulfilled in two ways; one by good advice, shewing him the reason wherefore he ought not to act thus; the other by deeds, seeking means to prevent his going on to his own ruin, and putting a stop to those who give him ill counsel, for inasmuch as his errors are of worse consequence than those of other men, it is the bounden duty of subjects to prevent his committing them."† To this law the insurgents appealed, in their coalition against Alvaro de Luna; and

Confederacies of the nobility.

sit faidosus, quia jussio domini sui fuit, et non potuit contradicere jussionem. Leges Bajuvariorum, tit. ii. in Baluz. Capitularibus.

\* Teoria de las Cortes, t. ii. p. 465.

† Ensayo Hist. Critico, p. 312.



CHAP. indeed we must confess, that however just and admirable the principles which it breathes, so general a licence of rebellion was not likely to preserve the tranquillity of a kingdom. The deputies of towns in a cortes of 1445 petitioned the king to declare that no construction should be put on this law, inconsistent with the obedience of subjects towards their sovereign; a request to which of course he willingly acceded.

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Castile, it will be apparent, bore a closer analogy to England in its form of civil polity, than France or even Aragon. But the frequent disorders of its government, and a barbarous state of manners, rendered violations of law much more continual and flagrant than they were in England under the Plantagenet dynasty. And besides these practical mischiefs, there were two essential defects in the constitution of Castile, through which perhaps it was ultimately subverted. It wanted those two brilliants in the coronet of British liberty, the representation of freeholders among the commons, and trial by jury. The cortes of Castile became a congress of deputies from a few cities, public-spirited indeed and intrepid, as we find them in bad times, to an eminent degree, but too much limited in number, and too unconnected with the territorial aristocracy, to maintain a just balance against the crown. Yet with every disadvantage, that country possessed a liberal form of government, and was animated with a noble spirit for its defence. Spain, in her late memorable though short resuscitation, might well have gone back to her ancient institutions, and perfected a scheme of policy which the great example of England would have shewn to be well adapted to the security of freedom. What she did, or rather attempted instead, I need not recall. May her next effort be more wisely planned, and more happily terminated!

Affairs of  
Aragon.

Though the kingdom of Aragon was very inferior in extent to that of Castile, yet the advantages of a better form of government and wiser sovereigns, with those of industry and commerce along a line of sea-coast, rendered it almost equal in importance. Castile rarely intermeddled in the civil dissensions of Aragon; the kings of Aragon



frequently carried their arms into the heart of Castile. During the sanguinary outrages of Peter the Cruel, and the stormy revolutions which ended in establishing the house of Trastamare, Aragon was not indeed at peace, nor altogether well governed; but her political consequence rose in the eyes of Europe through the long reign of the ambitious and wily Peter IV., whose sagacity and good fortune redeemed, according to the common notions of mankind, the iniquity with which he stripped his relation the king of Majorca of the Balearic islands, and the constant perfidiousness of his character. I have mentioned in another place the Sicilian war, prosecuted with so much eagerness for many years by Peter III. and his son Alfonso III. After this object was relinquished, James II. undertook an enterprize less splendid, but not much less difficult, the conquest of Sardinia. That island, long accustomed to independence, cost an incredible expense of blood and treasure to the kings of Aragon during the whole fourteenth century. It was not fully subdued till the commencement of the next, under the reign of Martin.

At the death of Martin, king of Aragon, in 1410, a memorable question arose as to the right of succession. Though Petronilla, daughter of Ramiro II., had reigned in her own right from 1137 to 1172, an opinion seems to have gained ground from the thirteenth century, that females could not inherit the crown of Aragon. Peter IV. had excited a civil war by attempting to settle the succession upon his daughter, to the exclusion of his next brother. The birth of a son about the same time suspended the ultimate decision of this question; but it was tacitly understood that what is called the Salic law ought to prevail.\* Accordingly on the death of John I. in 1395, his two daughters were set aside in favour of his brother Martin, though not without opposition on the part of the elder, whose husband, the count of Foix, invaded the kingdom, and desisted from his pretension only through want of force. Martin's son, the king

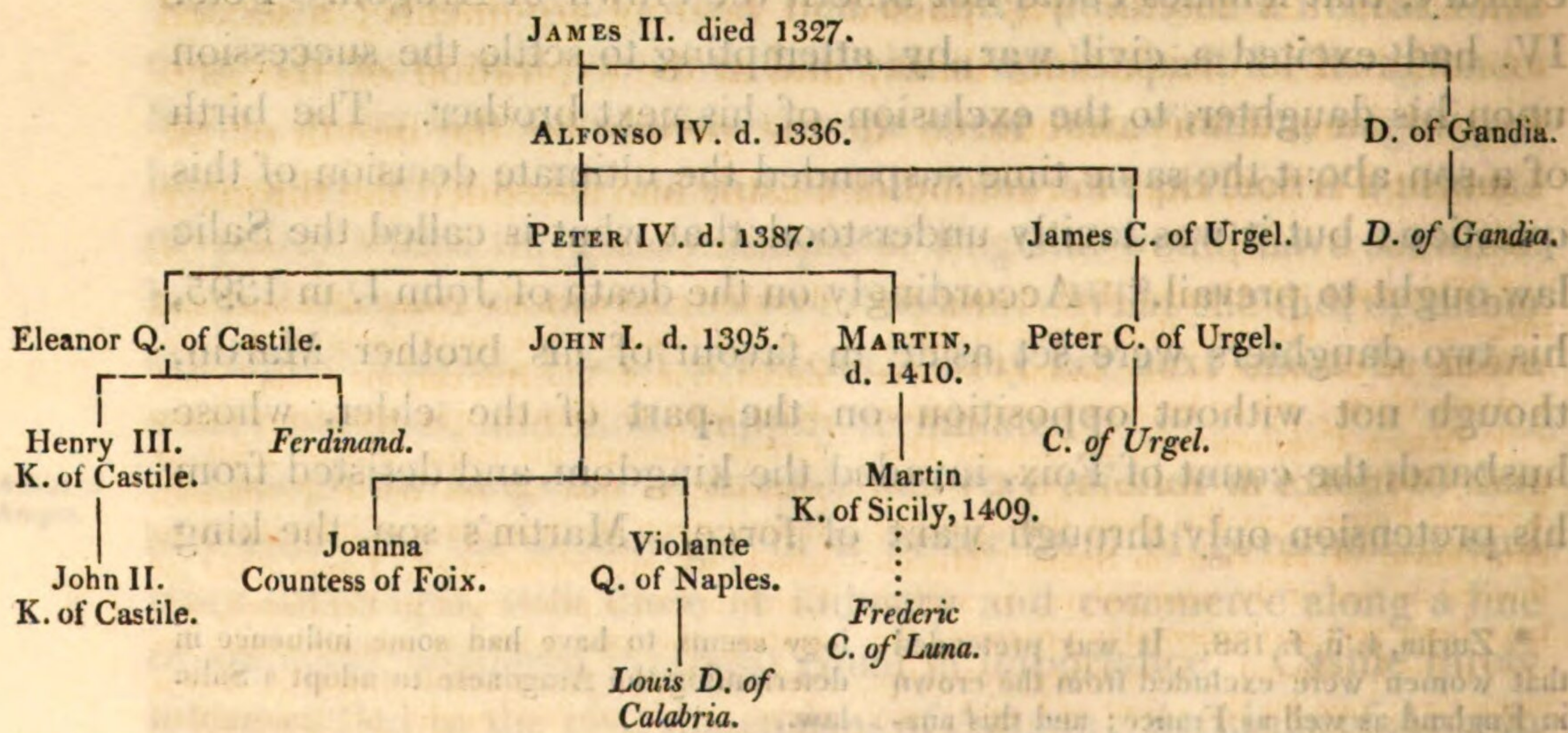
Disputed  
succession  
after the  
death of  
Martin.

\* Zurita, t. ii. f. 188. It was pretended that women were excluded from the crown in England as well as France; and this analogy seems to have had some influence in determining the Aragonese to adopt a Salic law.

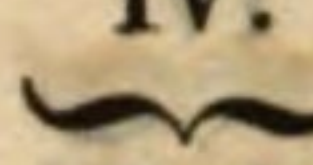


CHAP. IV.   
 SPAIN. of Sicily, dying in his father's life-time, the nation was anxious that the king should fix upon his successor, and would probably have acquiesced in his choice. But his dissolution occurring more rapidly than was expected, the throne remained absolutely vacant. The count of Urgel had obtained a grant of the lieutenancy, which was the right of the heir apparent. This nobleman possessed an extensive territory in Catalonia, bordering on the Pyrenees. He was grandson of James, next brother to Peter IV. and, according to our rules of inheritance, certainly stood in the first place. The other claimants were the duke of Gandia, grandson of James II. who, though descended from a more distant ancestor, set up a claim founded on proximity to the royal stock, which in some countries was preferred to a representative title; the duke of Calabria, son of Violante, younger daughter of John I. (the countess of Foix being childless); Frederic count of Luna, a natural son of the younger Martin, king of Sicily, legitimated by the pope, but with a reservation excluding him from royal succession; and finally, Ferdinand infant of Castile, son of the late king's sister.\* The count of Urgel was favoured in general by the Catalans, and he seemed to have a powerful support in Antonio de Luna, a baron of Aragon so rich,

\* The subjoined pedigree will shew more clearly the respective titles of the competitors.





that he might go through his own estate from France to Castile. CHAP. IV.  
 But this apparent superiority frustrated his hopes. The justiciary   
 and other leading Aragonese were determined not to suffer this great SPAIN.  
 constitutional question to be decided by an appeal to force, which  
 might sweep away their liberties in the struggle. Urgel, confident of  
 his right, and surrounded by men of ruined fortunes, was unwilling  
 to submit his pretensions to a civil tribunal. His adherent, Antonio  
 de Luna, committed an extraordinary outrage, the assassination of  
 the archbishop of Saragosa, which alienated the minds of good citi-  
 zens from his cause. On the other hand, neither the duke of Gandia,  
 who was very old,\* nor the count of Luna seemed fitted to succeed.  
 The party of Ferdinand, therefore, gained ground by degrees. It was  
 determined, however, to render a legal sentence. The cortes of each  
 nation agreed upon the nomination of nine persons, three Aragonese,  
 three Catalans, and three Valencians, who were to discuss the pre-  
 tensions of the several competitors, and by a plurality of six votes to  
 adjudge the crown. Nothing could be more solemn, more peaceful,  
 nor, in appearance, more equitable than the proceedings of this tribu-  
 nal. They summoned the claimants before them, and heard them by  
 counsel. One of these, Frederic of Luna, being ill defended, the court  
 took charge of his interests, and named other advocates to main-  
 tain them. A month was passed in hearing arguments; a second  
 was allotted to considering them; and at the expiration of the pre-  
 scribed time, it was announced to the people by the mouth of St.  
 Vincent Ferrier, that Ferdinand of Castile had ascended the throne.†

\* This duke of Gandia died during the interregnum. His son, though not so objectionable on the score of age, seemed to have a worse claim; yet he became a competitor.

† *Biancæ Commentaria*, in *Schotti Hispania Illustrata*, t. ii. *Zurita*, t. iii. f. 1—74. Vincent Ferrier was the most distinguished churchman of his time in Spain. His influence as one of the nine judges, is said to have been very instrumental in procuring the crown for Ferdinand. Five others voted the same way; one for the count of Urgel; one

doubtfully between the count of Urgel and duke of Gandia; the ninth declined to vote. *Zurita*, t. iii. f. 71. It is curious enough, that John king of Castile was altogether disregarded; though his claim was at least as plausible as that of his uncle Ferdinand. Indeed upon the principles of inheritance to which we are accustomed, Louis duke of Calabria had a prior right to Ferdinand, admitting the rule which it was necessary for both of them to establish; namely, that a right of succession might be transmitted



- CHAP. IV. In this decision, it is impossible not to suspect that the judges were swayed rather by politic considerations, than a strict sense of hereditary right. It was therefore by no means universally popular, especially in Catalonia, of which principality the count of Urgel was a native; and perhaps the great rebellion of the Catalans fifty years afterwards may be traced to the disaffection which this breach, as they thought, of the lawful succession had excited. Ferdinand however was well received in Aragon. The cortes generously recommended the count of Urgel to his favour, on account of the great expenses he had incurred in prosecuting his claim. But Urgel did not wait the effects of this recommendation. Unwisely attempting a rebellion with very inadequate means, he lost his estates, and was thrown for life into prison. Ferdinand's successor was his son Alfonso V. more distinguished in the history of Italy than of Spain. For all the latter years of his life, he never quitted the kingdom that he had acquired by his arms, and, enchanted by the delicious air of Naples, entrusted the government of his patrimonial territories to the care of a brother and an heir. John II., upon whom they devolved by the death of Alfonso without legitimate progeny, had been engaged during his youth in the turbulent revolutions of Castile, as the head of a strong party that opposed the domination of Alvaro de Luna.
- Decision in favour of Ferdinand of Castile. 1412
- Alfonso V. 1416
- John II. 1458
- 1420 By marriage with the heiress of Navarre, he was entitled, according to the usage of those times, to assume the title of king, and administration of government during her life. But his ambitious retention of power still longer produced events which are the chief stain on his memory. Charles prince of Viana was, by the constitution of Navarre, entitled to succeed his mother. She had requested him in her testament not to assume the government without his father's consent. That consent was always withheld. The prince raised what we ought not to call a rebellion; but was made prisoner, and remained for some time in captivity. John's ill disposition towards his son was through females, which females could not personally enjoy. This, as is well known, had been advanced in the preceding age by Edward III. as the foundation of his claim to the crown of France.
- 1442



exasperated by a step-mother, who scarcely disguised her intention of placing her own child on the throne of Aragon at the expense of the eldest-born. After a life of perpetual oppression, chiefly passed in exile or captivity, the prince of Viana died in Catalonia, at a moment when that province was in open insurrection upon his account. Though it hardly seems that the Catalans had any more general provocations, they persevered for more than ten years with inveterate obstinacy in their rebellion; offering the sovereignty first to a prince of Portugal, and afterwards to Regnier duke of Anjou, who was destined to pass his life in unsuccessful competition for kingdoms. The king of Aragon behaved with great clemency towards these insurgents on their final submission.

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IV.

SPAIN.

1461

It is consonant to the principle of this work, to pass lightly over the common details of history, in order to fix the reader's attention more fully on subjects of philosophical inquiry. Perhaps in no European monarchy, except our own, was the form of government more interesting than in Aragon, as a fortunate temperament of law and justice with the royal authority. So far as any thing can be pronounced of its earlier period before the capture of Saragosa in 1118, it was a kind of regal aristocracy, where a small number of powerful barons elected their sovereign on every vacancy, though, as usual in other countries, out of one family; and considered him as little more than the chief of their confederacy.\* These were the *ricos hombres* or barons, the first order of the state. Among these the kings of Aragon, in subsequent times, as they extended their dominions, shared the conquered territory in grants of honours on a feudal tenure.† For this system was fully

Constitution  
of Aragon.Originally a  
sort of regal  
aristocracy.Privileges  
of the *ricos-  
hombres* or  
barons.

\* Alfonso III. complained, that his barons wanted to bring back old times, quando havia en el reyno tantos reyes como ricos hombres. *Biancæ Commentaria*, p. 737. The form of election, supposed to have been used by these bold barons, is well known. "We who are as good as you, chuse you for our king and lord, provided that you observe our laws and privileges, and if not, not."

But I do not much believe the authenticity of this form of words. See Robertson's *Charles V.* vol. i. note 31. It is, however, sufficiently agreeable to the spirit of the old government.

† Los ricos hombres, por los feudos que tenían del rey, eran obligados de seguir al rey, si yva en persona a la guerra y residir en ella tres meses en cadaun año. *Zurita*, t. i.



CHAP. established in the kingdom of Aragon. A rico hombre, as we read  
 IV. in Vitalis, bishop of Huesca, about the middle of the thirteenth cen-  
 SPAIN. tury,\* must hold of the king an honour or barony capable of sup-  
 1041 porting more than three knights; and this he was bound to distri-  
 1041 bute among his vassals in military fiefs. Once in the year he might  
 be summoned with his feudataries to serve the sovereign for two  
 months (Zurita says three); and he was to attend the royal court,  
 or general assembly, as a counsellor, whenever called upon, assisting  
 in its judicial as well as deliberative business. In the towns and vil-  
 lages of his barony he might appoint bailiffs to administer justice,  
 and receive penalties; but the higher criminal jurisdiction seems to  
 have been reserved to the crown. According to Vitalis the king  
 could divest these ricosombres of their honours at pleasure, after  
 which they fell into the class of mesnadaries, or mere tenants in chief.  
 But if this were constitutional in the reign of James I., which Blancas  
 denies, it was not long permitted by that high spirited aristocracy.  
 By the General Privilege or charter of Peter III. it is declared that  
 no barony can be taken away without a just cause and legal sentence  
 of the justiciary and council of barons.† And the same protection  
 was extended to the vassals of the ricosombres.

Lower nobi-  
 lity.

Below these superior nobles were the mesnadaries, corresponding  
 to our mere tenants in chief, holding estates not baronial imme-  
 diately from the crown; and the military vassals of the high nobility,  
 the knights and infanzones; a word which may be rendered by  
 gentlemen. These had considerable privileges in that aristocratic  
 government; they were exempted from all taxes, they could only be  
 tried by the royal judges for any crime; and offences committed  
 against them were punished with additional severity.‡ The ignoble

fol. 43. (Saragosa, 1610.) A fief was usually  
 called in Aragon an honour, que en Castilla  
 llamavan tierra, y en el principado de Cata-  
 luña feudo. fol. 46.

\* I do not know whether this work of Vi-  
 talis has been printed; but there are large  
 extracts from it in Blancas's history, and also

in Du Cange, under the words Infancio,  
 Mesnadarius, &c. Several illustrations of  
 these military tenures may be found in the  
 Fueros de Aragon, especially lib. 7.

† Biancæ Comm. p. 730.

‡ Id. p. 732.



classes were, as in other countries, the burgesses of towns, and the villeins or peasantry. None however could be reckoned in the former class, at least in the age of Vitalis, who exercised any handicraft, except a few of the more honourable trades, among which was that in fine cloths. The peasantry seem to have been subject to territorial servitude, as in France and England. Vitalis says, that some villeins were originally so unprotected, that, as he expresses it, they might be divided into pieces by the sword among the sons of their master; till they were provoked to an insurrection which ended in establishing certain stipulations, whence they obtained the denomination of villeins *de parada*, or of convention.\*

CHAP.  
IV.

SPAIN.

Burgesses  
and pea-  
santry.

Though from the twelfth century the principle of hereditary succession to the throne superseded, in Aragon as well as Castile, the original right of chusing a sovereign within the royal family, it was still founded upon one more sacred and fundamental, that of compact. No king of Aragon was entitled to assume that name, until he had taken a coronation oath, administered by the justiciary at Saragosa, to observe the laws and liberties of the realm.† Alfonso III., in 1285, being in France at the time of his father's death, named himself king in addressing the states, who immediately remonstrated on this premature assumption of his title, and obtained an apology.‡ Thus too, Martin, having been called to the crown of Aragon by the cortes in 1395, was specially required not to exercise any authority before his coronation.§

Liberties of  
the Aragon-  
ese king-  
dom.

Blancas quotes a noble passage from the acts of cortes in 1451. "We have always heard of old time, and it is found by experience, that seeing the great barrenness of this land, and the poverty of the realm, if it were not for the liberties thereof, the folk would go hence to live and abide in other realms, and lands more fruitful."|| This

\* p. 729.

† Zurita, *Anales de Aragon*, t. i. fol. 104. t. iii. fol. 76.‡ *Biancæ Comm.* p. 661. They acknowledged at the same time that he was their natural lord, and entitled to reign as lawful heir

to his father—so oddly were the hereditary and elective titles jumbled together. Zurita, t. i. fol. 303.

§ Zurita, t. ii. fol. 424.

|| Siempre havemos oydo dezir antigament, è se troba por esperiència, que atten-



CHAP. high spirit of freedom had long animated the Aragonese. After  
 IV. several contests with the crown in the reign of James I. not to go back  
 SPAIN. to earlier times, they compelled Peter III. in 1283, to grant a law,  
 General Privilege of 1283. called the General Privilege, the Magna Charta of Aragon, and per-  
 haps a more full and satisfactory basis of civil liberty than our own.  
 It contains a series of provisions against arbitrary tallages, spoliations  
 of property, secret process after the manner of the Inquisition in  
 criminal charges, sentences of the justiciary without assent of the  
 cortes, appointment of foreigners or Jews to judicial offices, trials of  
 accused persons in places beyond the kingdom, the use of torture,  
 except in charges of falsifying the coin, and the bribery of judges.  
 These are claimed as the ancient liberties of their country. "Absolute  
 power (*mero imperio è mixto*), it is declared, never was the con-  
 stitution of Aragon, nor of Valencia, nor yet of Ribagorça, nor shall  
 there be in time to come any innovation made; but only the law,  
 custom, and privilege which has been anciently used in the aforesaid  
 kingdoms."\*

Privilege of  
 Union.

The concessions extorted by our ancestors from John, Henry III.  
 and Edward I. were secured by the only guarantee those times  
 could afford, the determination of the barons to enforce them by  
 armed confederacies. These, however, were formed according to  
 emergencies, and except in the famous commission of twenty-five  
 conservators of Magna Charta, in the last year of John, were cer-  
 tainly unwarranted by law. But the Aragonese established a positive  
 right of maintaining their liberties by arms. This was contained in

*dida la grand sterilidad de aquesta tierra, è  
 pobreza de aqueste regno, si non fues por  
 las libertades de aquel, se yrian a bivar, y  
 habitar las gentes a otros regnos, è tierras  
 mas frutiferas. p. 751. Aragon was in fact  
 a poor country, barren and ill-peopled. The  
 kings were forced to go to Catalonia for  
 money, and indeed were little able to main-  
 tain expensive contests. The wars of Peter  
 IV. in Sardinia, and of Alfonso V. with Ge-  
 noa and Naples, impoverished their people.  
 A hearth-tax having been imposed in 1404,*

*it was found that there were 42,683 houses  
 in Aragon, which, according to most calcu-  
 lations, will not give much more than 200,000  
 inhabitants. In 1429, a similar tax being  
 laid on, it is said that the number of houses  
 was diminished in consequence of war. Zu-  
 rita, t. iii. fol. 189. It contains at present  
 between 600,000 and 700,000 inhabitants.  
 Edinburgh Review, vol. x. p. 435.*

\* *Fueros de Aragon, fol. 9. Zurita, t. i.  
 fol. 265.*



the Privilege of Union granted by Alfonso III. in 1287, after a violent conflict with his subjects ; but which was afterwards so completely abolished and even eradicated from the records of the kingdom, that its precise words have never been recovered.\* According to Zurita, it consisted of two articles ; first, that in case of the king's proceeding forcibly against any member of the union without previous sentence of the justiciary, the rest should be absolved from their allegiance ; secondly, that he should hold cortes every year in Saragosa.† During the two subsequent reigns of James II. and Alfonso IV. little pretence seems to have been given for the exercise of this right. But dissensions breaking out under Peter IV. in 1347, rather on account of his attempt to settle the crown upon his daughter, than of any specific public grievances, the nobles had recourse to the Union, that last voice, says Blancas, of an almost expiring state, full of weight and dignity, to chastise the presumption of kings.‡ They assembled at Saragosa, and used a remarkable seal for all their public instruments, an engraving from which may be seen in the historian I have just quoted. It represents the king sitting on his throne, with the confederates kneeling in a suppliant attitude around, to denote their loyalty, and unwillingness to offend. But in the back-ground tents and lines of spears are discovered, as a hint of their ability and resolution to defend themselves. The legend is *Sigillum Unionis Aragonum*. This respectful demeanour towards a sovereign against whom they were waging war, reminds us of the language held out by our Long Parliament, before the Presbyterian party was overthrown. And although it has been lightly censured as inconsistent and hypocritical, this tone is the safest that men can

Revolt  
against Pe-  
ter IV.

\* Blancas says that he had discovered a copy of the Privilege of Union in the archives of the see of Tarragona, and would gladly have published it, but for his deference to the wisdom of former ages, which had studiously endeavoured to destroy all recollection of that dangerous law. p. 662.

† t. i. fol. 322.

‡ *Priscam illam Unionis, quasi morientis reipublicæ extremam vocem, auctoritatis et gravitatis plenam, regum insolentiæ apertum vindicem excitârunt, summâ ac singulari bonorum omnium consensione.* p. 669. It is remarkable, that such strong language should have been tolerated under Philip II.



CHAP. adopt, who deeming themselves under the necessity of withstanding  
 IV. the reigning monarch, are anxious to avoid a change of dynasty, or  
 SPAIN. subversion of their constitution. These confederates were defeated  
 by the king at Epila in 1348.\* But his prudence and the remaining  
 strength of his opponents inducing him to pursue a moderate course,  
 there ensued a more legitimate and permanent balance of the consti-  
 tution from this victory of the royalists. The privilege of Union was  
 abrogated, Peter himself cutting to pieces with his sword the original  
 instrument. But in return many excellent laws for the security of  
 the subject were enacted;† and their preservation was entrusted to the  
 greatest officer of the kingdom, the Justiciary, whose authority and  
 pre-eminence may in a great degree be dated from this period.‡  
 That watchfulness over public liberty, which originally belonged to  
 the aristocracy of ricos hombres, always apt to thwart the crown, or  
 to oppress the people, and which was afterwards maintained by the  
 dangerous privilege of union, became the duty of a civil magistrate,  
 accustomed to legal rules, and responsible for his actions, whose  
 office and functions are the most pleasing feature in the constitu-  
 tional history of Aragon.

Privilege of  
 Union abo-  
 lished.  
 Other pro-  
 visions insti-  
 tuted.

Office of  
 Justiciary.

The justiza or justiciary of Aragon has been treated by some  
 writers as a sort of anomalous magistrate, created originally as an in-  
 termediate power between the king and people, to watch over the  
 exercise of royal authority. But I do not perceive that his functions  
 were, in any essential respect, different from those of the chief justice  
 of England, divided, from the time of Edward I., among the judges  
 of the King's Bench. We should undervalue our own constitution

\* Zurita observes that the battle of Epila was the last fought in defence of public liberty, for which it was held lawful of old to take up arms, and resist the king, by virtue of the privileges of union. For the authority of the justiciary being afterwards established, the former contentions and wars came to an end; means being found to put the weak on a level with the powerful, in which consists the peace and tranquillity of

all states; and from thenceforth the name of Union was by common consent proscribed. t. ii. fol. 226. Blancas also remarks, that nothing could have turned out more advantageous to the Aragonese, than their ill fortune at Epila.

† Fueros de Aragon. De iis, quæ Dominus rex. fol. 14. et alibi passim.

‡ Blanc. Comm. p. 671. 811. Zurita, t. ii. fol. 229.



by supposing that there did not reside in that court as perfect an authority to redress the subject's injuries, as was possessed by the Aragonese magistrate. In the practical exercise indeed of this power there was an abundant difference. Our English judges, more timid and pliant, left to the remonstrances of parliament that redress of grievances which very frequently lay within the sphere of their jurisdiction. There is, I believe, no recorded instance of a habeas corpus granted in any case of illegal imprisonment by the crown or its officers during the continuance of the Plantagenet dynasty. We shall speedily take notice of a very different conduct in Aragon.

The office of justiciary, whatever conjectural antiquity some have assigned to it, is not to be traced beyond the capture of Saragosa in 1118, when the series of magistrates commences.\* But for a great length of time they do not appear to have been particularly important; the judicial authority residing in the council of ricoshombrés, whose suffrages the justiciary collected, in order to pronounce their sentence rather than his own. A passage in Vitalis bishop of Huesca, whom I have already mentioned, shews this to have been the practice during the reign of James I.† Gradually, as notions of liberty became more definite, and laws more numerous, the reverence paid to their permanent interpreter grew stronger; and there was fortunately a succession of prudent and just men in that high office, through whom it acquired dignity and stable influence. Soon after the accession of James II., on some dissensions arising between the king and his barons, he called in the justiciary as a mediator, whose sentence, says Blancas, all obeyed.‡ At a subsequent time in the same reign, the military orders, pretending that some of their privileges were violated, raised a confederacy or union against the king.

\* Biancæ Comment. p. 638.

† Id. p. 722. Zurita indeed refers the justiciary's pre-eminence to an earlier date; namely, the reign of Peter II., who took away a great part of the local jurisdictions of the ricoshombrés. t. i. fol. 102. But, if I do not misunderstand the meaning of

Vitalis, his testimony seems to be beyond dispute. By the General Privilege of 1283, the justiciary was to advise with the ricoshombrés, in all cases where the king was a party against any of his subjects. Zurita, f. 281. See also f. 180.

‡ p. 663.



CHAP. James offered to refer the dispute to the justiciary, Ximenes Sala-  
 IV. nova, a man of eminent legal knowledge. The knights resisted his  
 SPAIN. jurisdiction, alledging the question to be of spiritual cognizance. He decided it however against them in full cortes at Saragosa, annulled their league, and sentenced the leaders to punishment.\* It was adjudged also that no appeal could lie to the spiritual court from a sentence of the justiciary passed with assent of the cortes. James II. is said to have frequently sued his subjects in the justiciary's court, to shew his regard for legal measures; and during the reign of this good prince, its authority became more established.† Yet it was not perhaps looked upon as fully equal to maintain public liberty against the crown, till, in the cortes of 1348, after the Privilege of Union was for ever abolished, such laws were enacted, and such authority given to the justiciary, as proved eventually a more adequate barrier against oppression, than any other country could boast. All the royal as well as territorial judges were bound to apply for his opinion in case of legal difficulties arising in their courts, which he was to certify within eight days. By subsequent statutes of the same reign, it was made penal for any one to obtain letters from the king, impeding the execution of the justiza's process, and they were declared null. Inferior courts were forbidden to proceed in any business after his prohibition.‡ Many other laws might be cited, corroborating the authority of this great magistrate; but there are two parts of his remedial jurisdiction, which deserve special notice.

Processes of  
 a *jurisfirma*  
 and mani-  
 festation.

These are the processes of *jurisfirma*, or *firma del derecho*, and of manifestation. The former bears some analogy to the writs of *pone* and *certiorari* in England, through which the court of King's Bench

\* Zurita, t. i. f. 403.; t. ii. f. 34. Bianc. p. 666. The assent of the cortes seems to render this in a nature of a legislative, rather than a judicial proceeding; but it is difficult to pronounce about a transaction so remote in time, and in a foreign country, the native historians writing rather concisely.

† Bianc. p. 663. James acquired the

surname of Just, el Justiciero, by his fair dealing towards his subjects. Zurita, t. ii. fol. 82.

‡ Fueros de Aragon: Quod in dubiis non crassis. (A. D. 1348.) Quod impetrans, (1372,) &c. Zurita, t. ii. fol. 229. Bianc. p. 671. and 811.



exercises its right of withdrawing a suit from the jurisdiction of inferior tribunals. But the Aragonese *jurisfirma* was of more extensive operation. Its object was not only to bring a cause commenced in an inferior court before the justiciary, but to prevent or inhibit any process from issuing against the person who applied for its benefit, or any molestation from being offered to him; so that, as Blancas expresses it, when we have entered into a recognizance (*firmè et graviter asseveremus*) before the justiciary of Aragon to abide the decision of law, our fortunes shall be protected by the interposition of his prohibition, from the intolerable iniquity of the royal judges.\* The process, termed manifestation, afforded as ample security for personal liberty as that of *jurisfirma* did for property. "To manifest any one," says the writer so often quoted, "is to wrest him from the hands of the royal officers, that he may not suffer any illegal violence; not that he is set at liberty by this process, because the merits of his case are still to be inquired into; but because he is now detained publicly, instead of being as it were concealed, and the charge against him is investigated, not suddenly or with passion, but in calmness and according to law, therefore this is called manifestation."† The power of this writ (if I may apply our term) was

\* p. 751. *Fueros de Aragon*, f. 137.

† Est apud nos manifestare, reum subito sumere, atque è regiis manibus extorquere, ne qua ipsi contra jus vis inferatur. Non quod tunc reus iudicio liberetur; nihilominus tamen, ut loquimur, de meritis causæ ad plenum cognoscitur. Sed quod deinceps manifesto teneatur, quasi antea celatus extitisset; necesseque deinde sit de ipsius culpâ, non impetu et cum furore, sed sedatis prorsus animis, et juxta constitutas leges judicari. Ex eo autem, quod hujusmodi iudicium manifesto deprehensum, omnibus jam patere debeat, Manifestationis sibi nomen arripuit. p. 675.

Ipsius Manifestationis potestas tam solida est et repentina, ut homini jam collum in laqueum inserenti subveniat. Illius enim præsidio, damnatus, dum per leges licet, quasi experiendi juris gratiâ, de manibus

iudicum confestim extorquetur, et in carcerem ducitur ad id ædificatum, ibidemque asservatur tamdiu, quamdiu jurene, an injuriâ quid in eâ causâ factum fuerit, judicatur. Propterea carcer hic vulgari linguâ, la carcel de los manifestados nuncupatur. p. 751.

*Fueros de Aragon*, fol. 60. De Manifestationibus personarum. Independently of this right of manifestation by writ of the justiciary, there are several statutes in the *Fueros* against illegal detention, or unnecessary severity towards prisoners. (De Custodiâ reorum, f. 163.) No judge could proceed secretly in a criminal process; an indispensable safeguard to public liberty, and one of the most salutary, as well as most ancient, provisions in our own constitution. (De judiciis.) Torture was abolished, except in cases of coining false money, and



CHAP. such, as he elsewhere asserts, that it would rescue a man whose neck  
 IV. was in the halter. A particular prison was allotted to those detained  
 SPAIN. for trial under this process.

Instances of  
 their appli-  
 cation.

Several proofs that such admirable provisions did not remain a dead letter in the law of Aragon, appear in the two historians, Blancas and Zurita, whose noble attachment to liberties, of which they had either witnessed, or might foretell the extinction, continually displays itself. I cannot help illustrating this subject by two remarkable instances. The heir apparent of the kingdom of Aragon had a constitutional right to the lieutenancy, or regency during the sovereign's absence from the realm. The title and office indeed were permanent, though the functions must of course have

then only in respect of vagabonds. (General Privilege of 1283.)

Zurita has explained the two processes of *jurisfirma* and *manifestation* so perspicuously, that, as the subject is very interesting and rather out of the common way, I shall both quote and translate the passage. Con firmar de derecho, que es dar caution a estar a justicia, se conceden literas inhibitorias por el justicia de Aragon, para que no puedan ser presos, ni privados, ni despojados de su possession, hasta que judicialmente se conozca, y declare sobre la pretension, y justicia de las partes, y parezca por processo legitimo, que se deve revocar la tal inhibition. Esta fué la suprema y principal autoridad del Justicia de Aragon, desde que este magistrado tuvo origen, y lo que llama manifestacion; porque assí como la firma de derecho por privilegio general del reyno impide, que no puede ninguno ser preso, o agraviado contra razon y justicia, de la misma manera la manifestacion, que es otro privilegio, y remedio muy principal, tiene fuerza, quando alguno es preso sin preceder processo legitimo, o quando lo prenden de hecho sin orden de justicia; y en estos casos solo el Justicia de Aragon, quando se tiene recurso al el, se interpone, manifestando il preso, que es tomarlo á su mano, de poder de qualquiera juez, aunque sea el mas supremo; y es obligado el Justicia de Aragon, y sus lugartenientes de proveer la manifesta-

cion en el mismo instante, que les es pedida sin preceder informacion; y basta que se pida por qualquiere persona que se diga procurador del que quiere que lo tengan por manifesto. t. ii. fol. 386. "Upon a firma de derecho, which is to give security for abiding the decision of law, the Justiciary of Aragon issues letters inhibiting all persons to arrest the party, or deprive him of his possession, until the matter shall be judicially inquired into, and it shall appear that such inhibition ought to be revoked. This process, and that which is called manifestation have been the chief powers of the justiciary, ever since the commencement of that magistracy. And as the firma de derecho by the general privilege of the realm secures every man from being arrested or molested against reason and justice, so the manifestation, which is another principal and remedial right, takes place when any one is actually arrested without lawful process; and in such cases only the Justiciary of Aragon, when recourse is had to him, interposes by *manifesting* the person arrested, that is, by taking him into his own hands, out of the power of any judge, however high in authority; and this manifestation the justiciary, or his deputies in his absence are bound to issue at the same instant it is demanded without further inquiry; and it may be demanded by any one as attorney of the party requiring to be manifested."



been superseded during the personal exercise of royal authority. CHAP.  
 But as neither Catalonia nor Valencia, which often demanded the IV.  
 king's presence, were considered as parts of the kingdom, there were SPAIN.  
 pretty frequent occasions for this anticipated reign of the eldest  
 prince. Such a regulation was not likely to diminish the mutual  
 and almost inevitable jealousies between kings and their heirs ap-  
 parent, which have so often disturbed the tranquillity of a court and  
 a nation. Peter IV. removed his eldest son, afterwards John I., from  
 the lieutenancy of the kingdom. The prince entered into a *firma del*  
*derecho* before the justiciary, Dominic de Cerda, who, pronouncing  
 in his favour, enjoined the king to replace his son in the lieutenancy  
 as the undoubted right of the eldest born. Peter obeyed, not  
 only in fact, to which, as Blancas observes, the law compelled him,  
 but with apparent cheerfulness.\* There are indeed no private per-  
 sons, who have so strong an interest in maintaining a free constitu-  
 tion and the civil liberties of their countrymen, as the members of  
 royal families; since none are so much exposed, in absolute govern-  
 ments, to the resentment and suspicion of a reigning monarch.

John I., who had experienced the protection of law in his weak-  
 ness, had afterwards occasion to find it interposed against his power.  
 This king had sent some citizens of Saragosa to prison without form  
 of law. They applied to Juan de Cerda, the justiciary, for a mani-  
 festation. He issued his writ accordingly; nor, says Blancas, could  
 he do otherwise, without being subject to a heavy fine. The king,  
 pretending that the justiciary was partial, named one of his own  
 judges, the vice-chancellor, as coadjutor. This raised a constitu-  
 tional question, whether, on suspicion of partiality, a coadjutor to  
 the justiciary could be appointed. The king sent a private order to  
 the justiciary not to proceed to sentence upon this interlocutory  
 point until he should receive instructions in the council, to which he  
 was directed to repair. But he instantly pronounced sentence in  
 favour of his exclusive jurisdiction without a coadjutor. He then

\* Zurita, ubi supra. Blancas, p. 673.



CHAP. repaired to the palace. Here the vice-chancellor, in a long ha-  
 IV. rangue, enjoined him to suspend sentence till he had heard the de-  
 SPAIN. cision of the council. Juan de Cerda answered that, the case being clear, he had already pronounced upon it. This produced some expressions of anger from the king, who began to enter into an argument on the merits of the question. But the justiciary answered that, with all deference to his majesty, he was bound to defend his conduct before the cortes, and not elsewhere. On a subsequent day, the king having drawn the justiciary to his country-palace on pretence of hunting, renewed the conversation with the assistance of his friend the vice-chancellor; but no impression was made on the venerable magistrate, whom John at length, though much pressed by his advisers to violent courses, dismissed with civility. The king was probably misled throughout this transaction, which I have thought fit to draw from obscurity, not only in order to illustrate the privilege of manifestation, but as exhibiting an instance of judicial firmness and integrity, to which, in the fourteenth century, no country perhaps in Europe could offer a parallel.\*

Office of  
justiciary  
held for life.

Before the cortes of 1348, it seems as if the justiciary might have been displaced at the king's pleasure. From that time he held his station for life. But in order to evade this law, the king sometimes exacted a promise to resign upon request. Ximenes Cerdan, the justiciary in 1420, having refused to fulfil this engagement, Alfonso V. gave notice to all his subjects not to obey him, and notwithstanding the alarm which this encroachment created, eventually succeeded in compelling him to quit his office. In 1439, Alfonso insisted with still greater severity upon the execution of a promise to resign made by another justiciary, detaining him in prison until his death. But the cortes of 1442 proposed a law, to which the king reluctantly acceded, that the justiciary should not be compellable to resign his office on account of any previous engagement he might have made.†

\* *Biancæ Commentar. ubi supra.* Zurita iii. fol. 140. 255. 272. *Bianc. Comment.* p. 701.

† *Fueros de Aragon, fol. 22.* Zurita, t.



But lest these high powers, imparted for the prevention of abuses, should themselves be abused, the justiciary was responsible, in case of an unjust sentence, to the extent of the injury inflicted;\* and was also subjected, by a statute of 1390, to a court of inquiry, composed of four persons chosen by the king out of eight named by the cortes; whose office appears to have been that of examining and reporting to the four estates in cortes, by whom he was ultimately to be acquitted or condemned. This superintendence of the cortes, however, being thought dilatory and inconvenient, a court of seventeen persons was appointed in 1461, to hear complaints against the justiciary. Some alterations were afterwards made in this tribunal.† The justiciary was always a knight, chosen from the second order of nobility, the barons not being liable to personal punishment. He administered the coronation-oath to the king; and in the cortes of Aragon, the justiciary acted as a sort of royal commissioner, opening or proroguing the assembly by the king's direction.

No laws could be enacted, or repealed, nor any tax imposed without the consent of the estates duly assembled.‡ Even as early as the reign of Peter II., in 1205, that prince having attempted to impose a general tallage, the nobility and commons united for the preservation of their franchises; and the tax was afterwards granted in part by the cortes.§ It may easily be supposed that the Aragonese were not behind other nations in statutes to secure these privileges, which upon the whole appear to have been more re-

\* Fueros de Aragon, f. 25.

† Blancas. Zurita, t. iii. f. 321: t. iv. f. 103. These regulations were very acceptable to the nation. In fact, the Justiza of Aragon had possessed much more unlimited powers than ought to be entrusted to any single magistrate. The court of King's Bench in England, besides its consisting of four co-ordinate judges, is checked by the appellant jurisdictions of the Exchequer Chamber and House of Lords, and, still more importantly, by the rights of juries.

‡ Majores nostri, quæ de omnibus statuenda essent, noluerunt juberi, vetarive posse, nisi vocatis, descriptisque ordinibus, ac cunctis eorum adhibitis suffragiis, re ipsâ cognitâ et promulgatâ. Unde perpetuum illud nobis comparatum est jus, ut communes et publicæ leges neque tolli, neque rogari possint, nisi prius universus populus unâ voce comitiis institutis suum eâ de re liberum suffragium ferat; idque postea ipsius regis assensu comprobetur. Biancæ, p. 761.

§ Zurita, t. i. fol. 92.

CHAP.  
IV.

SPAIN.

Responsi-  
bility of this  
magistrate.

Rights of  
legislation  
and taxa-  
tion.



CHAP. IV. IV. SPAIN. expected than in any other monarchy.\* The General Privilege of 1283 formed a sort of ground-work for this legislation, like the Great Charter in England. By a clause in this law, cortes were to be held every year at Saragosa. But under James II., their time of meeting was reduced to once in two years, and the place was left to the king's discretion.† Nor were the cortes of Aragon less vigilant than those of Castile in claiming a right to be consulted in all important deliberations of the executive power, or in remonstrating against abuses of government, or in superintending the proper expenditure of public money.‡ A variety of provisions, intended to secure these parliamentary privileges, and the civil liberties of the subject, will be found dispersed in the collection of Aragonese laws,§ which may be favourably compared with those of our own statute-book.

Cortes of Aragon.

Four estates, or as they were called, arms (brazos), formed the cortes of Aragon; the prelates, and commanders of military orders,

\* *Fueros de Aragon: Quod sissæ in Aragoniâ removeantur.* (A. D. 1372.) *De prohibitione sissarum:* (1398.) *De conservatione patrimonii:* (1461.) I have only remarked two instances of arbitrary taxation in Zurita's history, which is singularly full of information; one, in 1343, when Peter IV. collected money from various cities, though not without opposition; and the other a remonstrance of the cortes in 1383 against heavy taxes; and it is not clear that this refers to general unauthorized taxation. Zurita, t. ii. f. 168. and 382. Blancas mentions that Alfonso V. set a tallage upon his towns for the marriage of his natural daughters, which he might have done, had they been legitimate; but they appealed to the judiciary's tribunal, and the king receded from his demand. p. 701.

Some instances of tyrannical conduct in violation of the constitutional laws occur, as will naturally be supposed, in the annals of Zurita. The execution of Bernard Cabrera under Peter IV., t. ii. f. 336. and the severities inflicted on queen Forcia by her son-

in-law John I., f. 391. are perhaps as remarkable as any.

† Zurita, t. i. f. 426. In general the session lasted from four to six months. One assembly was prorogued from time to time, and continued six years, from 1446 to 1452, which was complained of as a violation of the law for their biennial renewal. t. iv. f. 6.

‡ The Sicilian war of Peter III. was very unpopular, because it had been undertaken without consent of the barons, contrary to the practice of the kingdom; porque ningun negocio arduo emprendian, sin acuerdo y consejo de sus ricoshombres. Zurita, t. i. fol. 264. The cortes, he tells us, were usually divided into two parties, whigs and tories; estava ordinariamente dividida en dos partes, la una que pensava procurar el beneficio del reyno, y la otra que el servicio del rey. t. iii. fol. 321.

§ *Fueros y observancias del reyno de Aragon.* 2 vols. in fol. Saragosa, 1667. The most important of these are collected by Blancas, p. 750.



who passed for ecclesiastics;\* the barons or ricosombres; the equestrian order or infanzones; and the deputies of royal towns.† The two former had a right of appearing by proxy. There was no representation of the infanzones, or lower nobility. But it must be remembered that they were not numerous, nor was the kingdom large. Thirty-five are reckoned by Zurita as present in the cortes of 1395, and thirty-three in those of 1412; and as upon both occasions an oath of fealty to a new monarch was to be taken, I presume that nearly all the nobility of the kingdom were present.‡ The ricosombres do not seem to have exceeded twelve or fourteen in number. The ecclesiastical estate was not much, if at all, more numerous. A few principal towns alone sent deputies to the cortes; but their representation was very full; eight or ten, and sometimes more, sat for Saragosa, and no town appears to have had less than four representatives. During the interval of the cortes a permanent commission, varying a good deal as to numbers, but chosen out of the four estates, was empowered to sit with very considerable authority, receiving and managing the public revenue, and protecting the justiciary in his functions.§

The kingdom of Valencia, and principality of Catalonia, having been annexed to Aragon, the one by conquest, the other by marriage, were always kept distinct from it in their laws and government. Each had its cortes, composed of three estates, for the

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SPAIN.  
Government of Valencia and Catalonia.

\* It is said by some writers, that the ecclesiastical arm was not added to the cortes of Aragon till about the year 1300. But I do not find mention in Zurita of any such constitutional change at that time; and the prelates, as we might expect from the analogy of other countries, appear as members of the national council long before. Queen Petronilla in 1142 summoned a los perlados, ricosombres, y cavalleros, y procuradores de las ciudades y villas, que le juntassen a cortes generales en la ciudad de Huesca. Zurita, t. i. fol. 71. So in the cortes of 1275, and on other occasions.

† Popular representation was more an-

cient in Aragon than in any other monarchy. The deputies of towns appear in the cortes of 1133, as Robertson has remarked from Zurita. Hist. of Charles V., note 32. And this cannot well be called in question, or treated as an anomaly; for we find them mentioned in 1142, (the passage cited in the last note,) and again in 1164, when Zurita enumerates many of their names. fol. 74. The institution of concejos, or corporate districts under a presiding town, prevailed in Aragon as it did in Castile.

‡ t. ii. f. 420.; t. iii. f. 76.

§ Biancæ, p. 762. Zurita, t. iii. f. 76.; f. 182. et alibi.



CHAP. division of the nobility into two orders did not exist in either country.

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The Catalans were tenacious of their ancient usages, and averse to incorporation with any other people of Spain. Their national character was high-spirited and independent; in no part of the peninsula did the territorial aristocracy retain, or at least pretend to such extensive privileges,\* and the citizens were justly proud of wealth acquired by industry, and of renown atchieved by valour. At the accession of Ferdinand I. which they had not much desired, the Catalans obliged him to swear three times successively to maintain their liberties, before they would take the reciprocal oath of allegiance.† For Valencia it seems to have been a politic design of James the Conqueror to establish a constitution nearly analogous to that of Aragon, but with such limitations as he should impose, taking care that the nobles of the two kingdoms should not acquire strength by union. In the reigns of Peter III. and Alfonso III., one of the principal objects contended for by the barons of Aragon was the establishment of their own laws in Valencia; to which the king never acceded.‡ They permitted however the possessions of the natives of Aragon in the latter kingdom to be governed by the law of Aragon.§ These three states, Aragon, Valencia, and Catalonia were perpetually united by a law of Alfonso III.; and every king on his accession was bound to swear that he would never separate them.|| Sometimes general cortes of the kingdoms and principality were convened; but the members did not, even in this case, sit together, and were no otherwise united, than as they met in the same city.¶

State of  
police.

I do not mean to represent the actual condition of society in Aragon as equally excellent with the constitutional laws. It is only

\* Zurita, t. ii. f. 360. The villenage of the peasantry in some parts of Catalonia was very severe, even near the end of the fifteenth century. Id. t. iv. f. 327.

† Id. t. iii. f. 81.

‡ Id. t. i. f. 281. 310. 333. There was originally a justiciary in the kingdom of Va-

lencia, f. 281: but this, I believe, did not long continue.

§ t. ii. f. 433.

|| t. ii. f. 91.

¶ Biancæ Comment. p. 760. Zurita, t. iii. fol. 239.



in very modern times that the administration of any government tolerably corresponds with its legal theory. Relatively to other monarchies, as I have already observed, there seem to have been fewer excesses of the royal prerogative in that kingdom. But the licentious habits of a feudal aristocracy prevailed very long. We find in history instances of private war between the great families, so as to disturb the peace of the whole nation, even near the close of the fifteenth century.\* The right of avenging injuries by arms, and the ceremony of diffidation, or solemn defiance of an enemy, are preserved by the laws. We even meet with the ancient barbarous usage of paying a composition to the kindred of a murdered man.† The citizens of Saragosa were sometimes turbulent, and a refractory nobleman sometimes defied the ministers of justice. But owing to the remarkable copiousness of the principal Aragonese historian, we find more frequent details of this nature than in the scantier annals of some countries. The internal condition of society was certainly far from peaceable in other parts of Europe.

By the marriage of Ferdinand with Isabella, and by the death of John II. in 1479, the two ancient and rival kingdoms of Castile and Aragon were for ever consolidated in the monarchy of Spain. There had been some difficulty in adjusting the respective rights of the husband and wife over Castile. In the middle ages, it was customary for the more powerful sex to exercise all the rights which it derived from the weaker, as much in sovereignties as in private possessions. But the Castilians were determined to maintain the positive and distinct prerogatives of their queen, to which they attached the independence of their nation. A compromise therefore was concluded, by which, though according to our notions Ferdinand obtained more than a due share, he might consider himself as more strictly limited than his father had been in Navarre. The names of both were to appear jointly in their style, and upon the coin, the king's taking the precedence in respect to his sex.

CHAP.  
IV.  
SPAIN.

Union of  
Castile and  
Aragon.

\* Zurita, t. iv. fol. 189

† Fueros de Aragon, f. 166. &c.



CHAP. But, in the royal scutcheon, the arms of Castile were preferred on  
 IV. account of the kingdom's dignity. Isabella had the appointment of  
 SPAIN. all civil offices in Castile; the nomination to spiritual benefices ran  
 in the name of both. The government was to be conducted by the  
 two conjointly when they were together, or by either singly, in the  
 province where one or other might happen to reside.\* This par-  
 titution was well preserved throughout the life of Isabel without  
 mutual encroachments or jealousies. So rare an unanimity between  
 persons thus circumstanced must be attributed to the superior  
 qualities of that princess, who, while she maintained a constant good  
 understanding with a very ambitious husband, never relaxed in  
 the exercise of her paternal authority over the kingdom of her  
 ancestors.

Conquest of  
Granada.

Ferdinand and Isabella had no sooner quenched the flames of  
 civil discord in Castile, than they determined to give an unequivocal  
 proof to Europe of the vigour which the Spanish monarchy was to  
 display under their government. For many years an armistice with  
 the Moors of Granada had been uninterrupted. Neither John II.  
 nor Henry IV. had been at leisure to think of aggressive hostilities;  
 and the Moors themselves, a prey, like their Christian enemies, to  
 civil war, and the feuds of their royal family, were content with  
 the unmolested enjoyment of the finest province in the peninsula.  
 If we may trust historians, the sovereigns of Granada were generally  
 usurpers and tyrants. But I know not how to account for that vast  
 populousness, that grandeur and magnificence which distinguished  
 the Mohammedan kingdoms of Spain, without ascribing some  
 measure of wisdom and beneficence to their governments. These  
 southern provinces have dwindled in later times; and in fact Spain  
 itself is chiefly interesting to the traveller, a circumstance sufficiently  
 humiliating to that proud nation, for the monuments which a foreign  
 and odious race of conquerors have left behind them. Granada  
 was however disturbed by a series of revolutions about the time of

\* Zurita, t. iv. fol. 224. Mariana, l. xxiv. c. 5.



Ferdinand's accession, which naturally encouraged his designs. CHAP. IV.  
 The Moors, contrary to what might have been expected from their IV.  
 relative strength, were the aggressors by attacking a town in Anda- SPAIN.  
 lusia.\* Predatory inroads of this nature had hitherto been only 1481  
 retaliated by the Christians. But Ferdinand was conscious that his  
 resources extended to the conquest of Granada, the consummation  
 of a struggle protracted through nearly eight centuries. Even in  
 the last stage of the Moorish dominion, exposed on every side to  
 invasion, enfeebled by a civil dissension, that led one party to abet  
 the common enemy, Granada was not subdued without ten years of  
 sanguinary and unremitting contest. Fertile beyond all the rest of  
 Spain, that kingdom contained seventy walled towns, and the  
 capital is said, almost two centuries before, to have been peopled by  
 200,000 inhabitants.† Its resistance to such a force as that of  
 Ferdinand is perhaps the best justification of the apparent negli-  
 gence of earlier monarchs. But Granada was ultimately compelled  
 to undergo the yoke. The city surrendered on the second of  
 January 1492; an event glorious not only to Spain, but to Christen-  
 dom; and which, in the political combat of the two religions,  
 seemed almost to counterbalance the loss of Constantinople. It  
 raised the name of Ferdinand, and of the new monarchy which he  
 governed, to high estimation throughout Europe. Spain appeared  
 an equal competitor with France in the lists of ambition. These  
 great kingdoms had for some time felt the jealousy natural to  
 emulous neighbours. The house of Aragon loudly complained of  
 the treacherous policy of Louis XI. He had fomented the troubles  
 of Castile, and given, not indeed an effectual aid, but all promises of  
 support to the princess Joanna, the competitor of Isabel. Rousillon,  
 a province belonging to Aragon, had been pledged to France by  
 John II. for a sum of money. It would be tedious to relate  
 the subsequent events, or to discuss their respective claims to its

\* Zurita, t. iv. fol. 314.

† Id. *ibid.*



CHAP. possession.\* At the accession of Ferdinand, Louis XI. still held  
 IV. Rousillon, and shewed little intention to resign it. But Charles  
 SPAIN. VIII., eager to smooth every impediment to his Italian expedition,  
 1841 restored the province to Ferdinand in 1493. Whether, by such a sacri-  
 fice, he was able to lull the king of Aragon into acquiescence, while  
 he dethroned his relation at Naples, and alarmed for a moment all  
 Italy with the apprehension of French dominion, it is not within  
 the limits of the present work to inquire.

\* For these transactions, see Garnier, is the most impartial French writer I have  
 Hist. de France, or Gaillard, Rivalité de ever read, in matters where his own country  
 France et d'Espagne, t. iii. The latter is concerned.



## CHAPTER V.

### HISTORY OF GERMANY TO THE DIET OF WORMS IN 1495.

*Sketch of German History under the Emperors of the House of Saxony—House of Franconia—Henry IV.—House of Swabia—Frederic Barbarossa—Fall of Henry the Lion—Frederic II.—Extinction of House of Swabia—Changes in the Germanic Constitution—Electors—Territorial Sovereignty of the Princes—Rodolph of Hapsburgh—State of the Empire after his time—Causes of Decline of Imperial Power—House of Luxemburg—Charles IV.—Golden Bull—House of Austria—Frederic III.—Imperial Cities—Provincial States—Maximilian—Diet of Worms—Abolition of private Wars—Imperial Chamber—Aulic Council—Bohemia—Hungary—Switzerland.*

AFTER the deposition of Charles the Fat in 888, which finally severed the connexion between France and Germany,\* Arnulf, an illegitimate descendant of Charlemagne, obtained the throne of the latter country, in which he was succeeded by his son Louis.† But upon the death of this prince in 911, the German branch of that dynasty became extinct. There remained indeed Charles the Simple, acknowledged as king in some parts of France, but rejected in others, and possessing no personal claims to respect. The Germans therefore wisely determined to chuse a sovereign from among

CHAP.  
V.  
GER-  
MANY.

Separation  
of Germany  
from France.

\* There can be no question about this in a general sense. But several German writers of the time assert, that both Eudes and Charles the Simple, rival kings of France, acknowledged the feudal superiority of Arnulf. Charles, says Regino, regnum quod usurpaverat ex manu ejus percepit. Struvius, Corpus Hist. German. p. 202, 203.

† The German princes had some hesitation about the choice of Louis; but their partiality to the Carlovingian line prevailed. Id. p. 208: quia reges Francorum semper ex uno genere procedebant, says an archbishop Hatto, in writing to the pope.



CHAP. themselves. They were at this time divided into five nations, each  
 V. under its own duke, and distinguished by difference of laws, as well  
 GER- as of origin: the Franks, whose territory, comprizing Franconia,  
 MANY. and the modern Palatinate, was considered as the cradle of the  
 empire, and who seem to have arrogated some superiority over the  
 rest; the Swabians, the Bavarians, the Saxons, under which name  
 the inhabitants of Lower Saxony alone and Westphalia were  
 included; and the Lorrainers, who occupied the left bank of the  
 Rhine as far as its termination. The choice of these nations in  
 their general assembly fell upon Conrad, duke of Franconia, ac-  
 cording to some writers, or at least a man of high rank, and  
 descended through females from Charlemagne.\*

Election of  
Conrad.

911

House of  
Saxony.

Henry the  
Fowler. 919  
Otho I. 936  
Otho II. 973  
Otho III.  
983.

Conrad dying without male issue, the crown of Germany was  
 bestowed upon Henry the Fowler, duke of Saxony, ancestor of the  
 three Othos, who followed him in direct succession. To Henry,  
 and to the first Otho, Germany was more indebted than to any  
 sovereign since Charlemagne. The conquest of Italy, and recovery  
 of the imperial title, are indeed the most brilliant trophies of Otho  
 the Great; but he conferred far more unequivocal benefits upon his  
 own country by completing what his father had begun, her libera-  
 tion from the inroads of the Hungarians. Two marches, that of  
 Misnia, erected by Henry the Fowler, and that of Austria, by Otho,  
 were added to the Germanic territory by their victories.†

A lineal succession of four descents without the least opposition,  
 seems to shew that the Germans were disposed to consider their  
 monarchy as fixed in the Saxon family. Otho II. and III. had  
 been chosen each in his father's lifetime, and during infancy. The

\* Schmidt, *Hist. des Allemands*, t. ii. p. 288. Struvius, *Corpus Historiæ Germanicæ*, p. 210. The former of these writers does not consider Conrad as duke of Franconia.

† Many towns in Germany, especially on the Saxon frontier, were built by Henry I.; who is said to have compelled every ninth man to take up his residence in them. This

had a remarkable tendency to promote the improvement of that territory, and, combined with the discovery of the gold and silver mines of Goslar under Otho I., rendered it the richest and most important part of the empire. Struvius, p. 225. and 251. Schmidt, t. ii. p. 322. Putter, *Historical Development of the German Constitution*, vol. i. p. 115.



formality of election subsisted at that time in every European kingdom; and the imperfect rights of birth required a ratification by public assent. If at least France and England were hereditary monarchies in the tenth century, the same may surely be said of Germany; since we find the lineal succession fully as well observed in the last as in the former. But upon the immature and unexpected decease of Otho III., a momentary opposition was offered to Henry duke of Bavaria, a collateral branch of the reigning family. He obtained the crown however by what contemporary historians call an hereditary title,\* and it was not until his death in 1024, that the house of Saxony was deemed to be extinguished.

CHAP.

V.

GER-  
MANY.Henry II.  
—1002

No person had now any pretensions that could interfere with the unbiassed suffrages of the nation; and accordingly a general assembly was determined by merit to elect Conrad, surnamed the Salic, a nobleman of Franconia.† From this prince sprung three successive emperors, Henry III., IV., and V. Perhaps the imperial prerogatives over that insubordinate confederacy never reached so high a point as in the reign of Henry III., the second emperor of the house of Franconia. It had been, as was natural, the object of all his predecessors not only to render their throne hereditary, which, in effect, the nation was willing to concede, but to surround it with authority sufficient to controul the leading vassals. These were the dukes of the four nations of Germany, (Saxony, Bavaria, Swabia, and Franconia,) and the three archbishops of the Rhenish cities, Mentz, Treves, and Cologne. Originally, as has been more fully shewn in another place, duchies, like counties, were temporary governments, bestowed at the pleasure of the crown. From this first stage they advanced to hereditary offices, and finally to patrimonial fiefs. But their progress was much slower in Germany than in

House of  
Franconia.  
Conrad II.  
—1024.  
Henry III.  
—1039.  
Henry IV.  
—1056.  
Henry V.  
—1106.

\* A maximâ multitudine vox una respondit; Henricum, Christi adjutorio, et jure hæreditario, regnaturum. Ditmar apud Struvium, p. 273. See other passages quoted in the same place. Schmidt, t. ii. p. 410.

† Conrad was descended from a daughter of Otho the Great, and also from Conrad I. His first cousin was duke of Franconia. Struvius. Schmidt. Pfeffel.



CHAP. France. Under the Saxon line of emperors, it appears probable, that although it was usual, and consonant to the prevailing notions of equity, to confer a duchy upon the nearest heir, yet no positive rule enforced this upon the emperor, and some instances of a contrary proceeding occurred.\* But, if the royal prerogative in this respect stood higher than in France, there was a countervailing principle, that prohibited the emperor from uniting a fief to his domain, or even retaining one which he had possessed before his accession. Thus Otho the Great granted away his duchy of Saxony, and Henry II. that of Bavaria. Otho the Great endeavoured to counteract the effects of this custom, by conferring the duchies that fell into his hands upon members of his own family. This policy, though apparently well conceived, proved of no advantage to Otho; his son and brother having mixed in several rebellions against him. It was revived, however, by Conrad II. and Henry III. The latter was invested by his father with the two duchies of Swabia and Bavaria. Upon his own accession, he retained the former for six years, and even the latter for a short time. The duchy of Franconia, which became vacant, he did not re-grant, but endeavoured to set a precedent of uniting fiefs to the domain. At another time, after a sentence of forfeiture against the duke of Bavaria, he bestowed that great province on his wife, the empress Agnes.† He put an end altogether to the form of popular concurrence, which had been usual when the investiture of a duchy was conferred: and even deposed dukes by the sentence of a few princes, without the consent of the diet.‡ If we combine with these proofs of authority in the domestic administration of Henry III., his almost unlimited controul over papal elections, or rather the right of nomination that he acquired, we must consider him as the most absolute monarch in the annals of Germany.

\* Schmidt, t. ii. p. 394. 403. Struvius, p. 214. supposes the hereditary rights of dukes to have commenced under Conrad I.; but Schmidt is perhaps a better authority; and Struvius afterwards mentions the refusal

of Otho I. to grant the duchy of Bavaria to the sons of the last duke, which however excited a rebellion. p. 235.

† Schmidt, t. iii. p. 25. 37.

‡ Id. p. 207.



These ambitious measures of Henry III. prepared fifty years of calamity for his son. It is easy to perceive that the misfortunes of Henry IV. were primarily occasioned by the jealousy with which repeated violations of their constitutional usages had inspired the nobility.\* The mere circumstance of Henry IV.'s minority, under the guardianship of a woman, was enough to dissipate whatever power his father had acquired. Hanno, archbishop of Mentz, carried the young king away by force from his mother, and governed Germany in his name; till another archbishop, Adalbert of Bremen, obtained greater influence over him. Through the neglect of his education, Henry grew up with a character not well fitted to retrieve the mischief of so unprotected a minority; brave indeed, well-natured, and affable, but dissolute beyond measure, and addicted to low and debauched company. He was soon involved in a desperate war with the Saxons, a nation valuing itself on its populousness and riches, jealous of the house of Franconia, who wore a crown that had belonged to their own dukes, and indignant at Henry's conduct in erecting fortresses throughout their country.

In the progress of this war, many of the chief princes evinced an unwillingness to support the emperor.† Notwithstanding this, it would probably have terminated, like other rebellions, with no permanent loss to either party. But, in the middle of this contest, another far more memorable broke out with the Roman See, concerning ecclesiastical investitures. The motives of this famous quarrel will be explained in a different chapter of the present work. Its effect in Germany was ruinous to Henry. A sentence, not only of excommunication, but of deposition, which Gregory VII. pronounced against him, gave a pretence to all his enemies, secret as well as avowed, to withdraw their allegiance.‡ At the head of these

\* In the very first year of Henry's reign, while he was but six years old, the princes of Saxony are said by Lambert of Aschaffenburg to have formed a conspiracy to depose him, out of resentment for the injuries

they had sustained from his father. Struvius, p. 306. St. Marc, t. iii. p. 248.

† Struvius. Schmidt.

‡ A party had been already formed, who were meditating to depose Henry. His ex-

CHAP.  
V.  
GER-  
MANY.  
Unfortu-  
nate reign  
of Henry  
IV.

0801

1078

1077



CHAP. V.   
 V.   
 GER-   
 MANY.   
 1080 was Rodolph, duke of Swabia, whom an assembly of revolted princes raised to the throne. We may perceive in the conditions of Rodolph's election, a symptom of the real principle that animated the German aristocracy against Henry IV. It was agreed that the kingdom should no longer be hereditary, nor conferred on the son of a reigning monarch, unless his merit should challenge the popular approbation.\* The pope strongly encouraged this plan of rendering the empire elective, by which he hoped either eventually to secure the nomination of its chief for the Holy See, or at least by sowing the seed of civil dissensions in Germany, to render Italy more independent. Henry IV. however displayed greater abilities in his adversity, than his early conduct had promised. In the last of several indecisive battles Rodolph, though victorious, was mortally wounded; and no one cared to take up a gauntlet which was to be won with so much trouble and uncertainty. The Germans were sufficiently disposed to submit; but Rome persevered in her unrelenting hatred. At the close of Henry's long reign, she excited against him his eldest son, and after more than thirty years of hostility, had the satisfaction of wearing him down with misfortune, and casting out his body, as excommunicated, from its sepulchre.

Extinction  
of the house  
of Fran-  
conia.  
Election of  
Lothaire.

1125

In the reign of his son Henry V. there is no event worthy of much attention, except the termination of the great contest about investitures. At his death in 1125, the male line of the Franconian emperors was at end. Frederic, duke of Swabia, grandson by his

communication came just in time, to confirm their resolutions. It appears clearly, upon a little consideration of Henry IV.'s reign, that the ecclesiastical quarrel was only secondary in the eyes of Germany. The contest against him was a struggle of the aristocracy, jealous of the imperial prerogatives which Conrad II. and Henry III. had strained to the utmost. Those who were in rebellion against Henry were not pleased with Gregory VII. Bruno, author of a history of the Saxon war, a furious invective, manifests great dissatisfaction with the court of

Rome, which he reproaches with dissimulation and venality.

\* Hoc etiam ibi consensu communi comprobatur, Romani pontificis auctoritate est corroboratum, ut regia potestas nulli per hæreditatem, sicut antea fuit consuetudo, cederet, sed filius regis, etiamsi valde dignus esset, per electionem spontaneam, quàm per successionis lineam, rex proveniret: si vero non esset dignus regis filius, vel si nollet eum populus, quem regem facere vellet, haberet in potestate populus. Bruno de Bello Saxonico, apud Struvium, p. 327.



mother of Henry IV., had inherited their patrimonial estates, and seemed to represent their dynasty. But both the last emperors had so many enemies, and a disposition to render the crown elective prevailed so strongly among the leading princes, that Lothaire, duke of Saxony, was elevated to the throne, though rather in a tumultuous and irregular manner.\* Lothaire, who had been engaged in a revolt against Henry V., and the chief of a nation that bore an inveterate hatred to the house of Franconia, was the natural enemy of the new family that derived its importance and pretensions from that stock. It was the object of his reign, accordingly, to oppress the two brothers, Frederic and Conrad, of the Hohenstauffen, or Swabian family. By this means he expected to secure the succession of the empire for his son-in-law. Henry, surnamed the Proud, who married Lothaire's only child, was fourth in descent from Welf, son of Azon, marquis of Este, by Cunegonda, heiress of a distinguished family, the Welfs of Altorf in Swabia. Her son was invested with the duchy of Bavaria in 1071. His descendant, Henry the Proud, represented also, through his mother, the ancient dukes of Saxony, surnamed Billung, from whom he derived the duchy of Luneburg. The wife of Lothaire transmitted to her daughter the patrimony of Henry the Fowler, consisting of Hanover and Brunswick. Besides this great dowry, Lothaire bestowed upon his son-in-law the duchy of Saxony, in addition to that of Bavaria.†

This amazing preponderance, however, tended to alienate the princes of Germany from Lothaire's views in favour of Henry; and the latter does not seem to have possessed abilities adequate to his

\* See an account of Lothaire's election by a contemporary writer, in Struvius, p. 357. See also proofs of the dissatisfaction of the aristocracy at the Franconian government. Schmidt, t. iii. p. 328. It was evidently their determination to render the empire truly elective; (Id. p. 335.) and perhaps we may date that fundamental principle of the Germanic constitution from the accession

of Lothaire. Previously to that æra, birth seems to have given not only a fair title to preference, but a sort of inchoate right, as in France, Spain, and England. Lothaire signed a capitulation at his accession.

† Pfeffel, *Abrégé Chronologique de l'Histoire d'Allemagne*, t. i. p. 269. (Paris, 1777.) Gibbon's *Antiquities of the House of Brunswick*.

CHAP.  
V.  
GER-  
MANY.



CHAP. V. eminent station. On the death of Lothaire in 1138, the partizans of the house of Swabia made a hasty and irregular election of Conrad, in which the Saxon faction found itself obliged to acquiesce.\*

GER-  
MANY.

House of  
Swabia.

Conrad III.

1138

Original of  
Guelfs and  
Ghibelins.

The new emperor availed himself of the jealousy which Henry the Proud's aggrandizement had excited. Under pretence that two duchies could not legally be held by the same person, Henry was summoned to resign one of them; and, on his refusal, the diet pronounced that he had incurred a forfeiture of both. Henry made but little resistance, and, before his death, which happened soon afterwards, saw himself stripped of all his hereditary as well as acquired possessions. Upon this occasion, the famous names of Guelf and Ghibelin were first heard, which were destined to keep alive the flame of civil dissension in far distant countries, and after their meaning had been forgotten. The Guelfs or Welfs were, as I have said, the ancestors of Henry, and the name has become a sort of patronymic in his family. The word Ghibelin is derived from Wibelung, a town in Franconia, whence the emperors of that line are said to have sprung. The house of Swabia were considered in Germany as representing that of Franconia; as the Guelfs may, without much impropriety, be deemed to represent the Saxon line.†

Frederic  
Barbarossa.

1152

Though Conrad III. left a son, the choice of the electors fell, at his own request, upon his nephew Frederic Barbarossa.‡ The most conspicuous events of this great emperor's life belong to the history of Italy. At home he was feared and respected; the imperial prerogatives stood as high during his reign, as, after their previous decline, it was possible for a single man to carry them.§ But the only circumstance which appears memorable enough for the present sketch, is the second fall of the Guelfs. Henry the Lion, son of Henry the Proud, had been restored by Conrad III. to his father's duchy of Saxony, resigning his claim to that of Bavaria, which had been

Fall of Henry  
the Lion.

1178

\* Schmidt.

† The original of these famous watch-words of faction, Guelf and Ghibelin, is explained by Otho of Frisingen so clearly, as to leave no possibility of doubt. See this,

and other quotations, in Struvius, pp. 370. and 378.

‡ Struvius.

§ Pfeffel, p. 341.



conferred on the margrave of Austria. This renunciation, which indeed was only made in his name during childhood, did not prevent him from urging the emperor Frederic to restore the whole of his birthright; and Frederic, his first cousin, whose life he had saved in a sedition at Rome, was induced to comply with this request in 1156. Far from evincing that political jealousy which some writers impute to him, the emperor seems to have carried his generosity beyond the limits of prudence. For many years their union was apparently cordial. But, whether it was that Henry took umbrage at part of Frederic's conduct,\* or that mere ambition rendered him ungrateful, he certainly abandoned his sovereign in a moment of distress, refusing to give any assistance in that expedition into Lombardy, which ended in the unsuccessful battle of Legnano. Frederic could not forgive this injury; and taking advantage of complaints which Henry's power and haughtiness had produced, summoned him to answer charges in a general diet. The duke refused to appear, and being adjudged contumacious, a sentence of confiscation, similar to that which ruined his father, fell upon his head; and the vast imperial fiefs that he possessed were shared among some potent enemies.† He made an ineffectual resistance; like his father, he appears to have owed more to fortune than to nature; and, after three years exile, was obliged to remain content with the restoration of his alodial estates in Saxony. These, fifty years afterwards, were converted into imperial fiefs, and became the two duchies of the house of Brunswic, the lineal representatives of Henry the Lion, and inheritors of the name of Guelf.‡

\* Frederic had obtained the succession of Welf, marquis of Tuscany, uncle of Henry the Lion, who probably considered himself as intitled to expect it.—Schmidt, p. 427.

† Putter, in his *Historical Development of the Constitution of the German Empire*, is inclined to consider Henry the Lion as sacrificed to the emperor's jealousy of the Guelfs, and as illegally proscribed by the diet. But the provocations he had given

Frederic are undeniable; and, without pretending to decide on a question of German history, I do not see that there was any precipitancy or manifest breach of justice in the course of proceedings against him. Schmidt, Pfeffel and Struvius do not represent the condemnation of Henry as unjust.

‡ Putter, p. 220.

CHAP.

V.

GER-  
MANY.

IV. 1156

0011

1156

1208



CHAP.

V.

GER-  
MANY.

Henry VI.

1190

Philip and  
Otho IV.

1197

1208

Notwithstanding the prevailing spirit of the German oligarchy, Frederic Barbarossa had found no difficulty in procuring the election of his son Henry even during infancy as his successor.\* The fall of Henry the Lion had greatly weakened the ducal authority in Saxony and Bavaria; the princes who acquired that title, especially in the former country, finding that the secular and spiritual nobility of the first class had taken the opportunity to raise themselves into an immediate dependence upon the empire. Henry VI. came therefore to the crown with considerable advantages in respect of prerogative; and these inspired him with a bold scheme of declaring the empire hereditary. One is more surprized to find, that he had no contemptible prospect of success in this attempt; fifty-two princes, and even, what appears hardly credible, the See of Rome under Clement III. having been induced to concur in it. But the Saxons made so vigorous an opposition that Henry did not think it advisable to persevere.† He procured however the election of his son Frederic, an infant only two years old. But, the emperor dying almost immediately, a powerful body of princes, supported by Pope Innocent III. were desirous to withdraw their consent. Philip duke of Swabia, the late king's brother, unable to secure his nephew's succession, brought about his own election by one party, while another chose Otho of Brunswic, younger son of Henry the Lion. This double election renewed the rivalry between the Guelfs and Ghibelins, and threw Germany into confusion for several years. Philip, whose pretensions appear to be the more legitimate of the two, gained ground upon his adversary, notwithstanding the opposition of the pope, till he was assassinated, in consequence of a private resentment. Otho IV. reaped the benefit of a crime, in which he did not participate; and became for some years undisputed sovereign. But, having offended the pope by not entirely abandoning his imperial rights

\* Struvius, p. 418.

† Idem, p. 424. Impetravit a subditis, ut, cessante pristinâ Palatinorum electione, imperium in ipsius posteritatem, distinctâ proxi-

morum successione, transiret, et sic in ipso terminus esset electionis, principiumque successivæ dignitatis. Gervas. Tilburiens. ibidem.



over Italy, he had, in the latter part of his reign, to contend against Frederic, son of Henry VI. who, having grown up to manhood, came into Germany as heir of the house of Swabia, and, what was not very usual in his own history, or that of his family, the favoured candidate of the Holy See. Otho IV. had been almost entirely deserted, except by his natural subjects, when his death, in 1218, removed every difficulty, and left Frederic II. in the peaceable possession of Germany.

The eventful life of Frederic II. was chiefly passed in Italy. To preserve his hereditary dominions, and chastise the Lombard cities, were the leading objects of his political and military career. He paid therefore but little attention to Germany, from which it was in vain for any emperor to expect effectual assistance towards objects of his own. Careless of prerogatives which it seemed hardly worth an effort to preserve, he sanctioned the independence of the princes, which may be properly dated from his reign. In return, they readily elected his son Henry king of the Romans; and, on his being implicated in a rebellion, deposed him with equal readiness, and substituted his brother Conrad at the emperor's request.\* But in the latter part of Frederic's reign, the deadly hatred of Rome penetrated beyond the Alps. After his solemn deposition in the council of Lyons, he was incapable, in ecclesiastical eyes, of holding the imperial sceptre. Innocent IV. found however some difficulty in setting up a rival emperor. Henry, landgrave of Thuringia, made an indifferent figure in this character. Upon his death, William count of Holland was chosen by the party adverse to Frederic and his son Conrad; and, after the emperor's death, he had some success against the latter. It is hard indeed to say that any one was actually sovereign for twenty-two years that followed the death of Frederic II.; a period of contested title and universal anarchy, which is usually denominated the grand interregnum. On the decease of William of Holland in 1256, a schism among the electors produced the double choice of Richard earl of Cornwall, and Alfonso X. king

CHAP.

V.

GER-  
MANY.

Frederic II.

Consequen-  
ces of the  
Council of  
Lyons.

1245

Grand in-  
terregnum.

1250—

1272

Richard of  
Cornwall.

\* Struvius, p. 457.



CHAP. of Castile. It seems not easy to determine which of these candidates  
 V. had a legal majority of votes ;\* but the subsequent recognition of  
 GER- almost all Germany, and a sort of possession evidenced by public  
 MANY. acts, which have been held valid, as well as the general consent of  
 contemporaries, may justify us in adding Richard to the imperial list.  
 The choice indeed was ridiculous, as he possessed no talents which  
 could compensate for his want of power ; but the electors attained  
 their objects ; to perpetuate a state of confusion by which their own  
 independence was consolidated ; and to plunder without scruple a  
 man, like Didius at Rome, rich and foolish enough to purchase the  
 first place upon earth.

State of the  
 Germanic  
 constitution.

That place indeed was now become a mockery of greatness. For  
 more than two centuries, notwithstanding the temporary influence of  
 Frederic Barbarossa and his son, the imperial authority had been in  
 a state of gradual decay. From the time of Frederic II. it had bor-  
 dered upon absolute insignificance ; and the more prudent German  
 princes were slow to canvass for a dignity so little accompanied by  
 respect. The changes wrought in the Germanic constitution during  
 the period of the Swabian emperors chiefly consist in the establish-  
 ment of an oligarchy of electors, and of the territorial sovereignty  
 of the princes.

Electors.

1. At the extinction of the Franconian line by the death of Henry  
 V., it was determined by the German nobility to make their empire  
 practically elective, admitting no right, or even natural pretension,  
 in the eldest son of a reigning sovereign. Their choice upon former

\* The election ought legally to have been made at Frankfort. But the elector of Treves, having got possession of the town, shut out the archbishops of Mentz and Cologne, and the count Palatine, on pretence of apprehending violence. They met under the walls, and there elected Richard. Afterwards Alfonso was chosen by the votes of Treves, Saxony and Brandenburg. Historians differ about the vote of Ottocar, king of Bohemia, which would turn the scale. Some time after the election, it is certain

that he was on the side of Richard. Perhaps we may collect from the opposite statements in Struvius, p. 504. that the proxies of Ottocar had voted for Alfonso, and that he did not think fit to recognize their act.

There can be no doubt that Richard was *de facto* sovereign of Germany ; and it is singular, that Struvius should assert the contrary, on the authority of an instrument of Rodolph, which expressly designates him king, per quondam Richardum regem illustrem. Struv. p. 502.



occasions had been made by free and general suffrage. But it may be presumed, that each nation voted unanimously, and according to the disposition of its duke. It is probable too, that the leaders, after discussing in previous deliberations the merits of the several candidates, submitted their own resolutions to the assembly, which would generally concur in them without hesitation. At the election of Lothaire, in 1124, we find an evident instance of this previous choice, or, as it was called, *prætaxation*, from which the electoral college of Germany has been derived. The princes, it is said, trusted the choice of an emperor to ten persons, in whose judgement they promised to acquiesce.\* This precedent was, in all likelihood, followed at all subsequent elections. The proofs indeed are not perfectly clear. But in the famous privilege of Austria, granted by Frederic I. in 1156, he bestows a rank upon the newly-created duke of that country, immediately after the electing princes (*post principes electores*);† a strong presumption that the right of *prætaxation* was not only established, but limited to a few definite persons. In a letter of Innocent III., concerning the double election of Philip and Otho in 1198, he asserts the latter to have had a majority in his favour of those, to whom the right of election chiefly belongs (*ad quos principaliter spectat electio*).‡ And a law of Otho in 1208, if it be genuine, appears to fix the exclusive privilege of the seven electors.§ Nevertheless, so obscure is this important part of the Germanic system, that we find four ecclesiastical and two secular princes concurring with the regular electors in the act, as reported by a contemporary writer, that creates Conrad, son of Frederic II., king of the Romans.|| This, however, may have been an irregular deviation from the principle already established. But it is admitted, that all the princes retained, at least during the twelfth century, their consenting suf-

CHAP.  
V.  
GER-  
MANY.

\* Struv. p. 357. Schmidt, t. iii. p. 331.

† Schmidt, t. iii. p. 390.

‡ Pfeffel, p. 360.

§ Schmidt, t. iv. p. 80.

|| This is not mentioned in Struvius, or the

other German writers. But Denina (*Rivoluzioni d'Italia*, l. xi. c. 9.) quotes the style of the act of election from the Chronicle of Francis Pippin.



CHAP. V.   
 ~~~~~  
 GER-
 MANY.

frage; like the laity in an episcopal election, whose approbation continued to be necessary, long after the real power of choice had been withdrawn from them.*

It is not easy to account for all the circumstances, that gave to seven spiritual and temporal princes this distinguished pre-eminence. The three archbishops, Mentz, Treves and Cologne, were always indeed at the head of the German church. But the secular electors should naturally have been the dukes of the four nations; Saxony, Franconia, Swabia, and Bavaria. We find however only the first of these in the undisputed exercise of a vote. It seems probable, that, when the electoral princes came to be distinguished from the rest, their privilege was considered as peculiarly connected with the discharge of one of the great offices in the imperial court. These were attached, as early as the diet of Mentz in 1184, to the four electors, who ever afterwards possessed them: the duke of Saxony having then officiated as arch-marshal, the count palatine of the Rhine as arch-steward, the king of Bohemia as arch-cupbearer, and the margrave of Brandenburg as arch-chamberlain of the empire.† But it still continues a problem, why the three latter offices, with the electoral capacity as their incident, should not rather have been granted to the dukes of Franconia, Swabia, and Bavaria. I have seen no adequate explanation of this circumstance; which may perhaps lead us to presume, that the right of pre-election was not quite so soon confined to the precise number of seven princes. The final extinction of two great original duchies, Franconia and Swabia, in the thirteenth century, left the electoral rights of the count palatine and the margrave of Brandenburg beyond dispute. But the dukes of Bavaria continued to claim a vote in opposition to the kings of Bohemia. At the election of Rodolph in 1272, the two brothers of the house of Wittelsbach voted separately, as count Palatine, and duke of Lower Bavaria. Ottocar was excluded upon this occasion; and it was not

* This is manifest by the various passages relating to the elections of Philip and Otho, quoted by Struvius, p. 428. 430. See too Pfeffel, ubi supra. Schmidt, t. iv. p. 79.
 † Schmidt, t. iv. p. 78.

till 1290 that the suffrage of Bohemia was fully recognized. The Palatine and Bavarian branches, however, continued to enjoy their family vote conjointly, by a determination of Rodolph; upon which Louis of Bavaria slightly innovated, by rendering the suffrage alternate. But the Golden Bull of Charles IV. put an end to all doubts on the rights of electoral houses, and absolutely excluded Bavaria from voting. The limitation to seven electors, first perhaps fixed by accident, came to be invested with a sort of mysterious importance, and certainly was considered, until times comparatively recent, as a fundamental law of the empire.*

CHAP.
V.
GER-
MANY.

2. It might appear natural to expect that an oligarchy of seven persons, who had thus excluded their equals from all share in the election of a sovereign, would assume still greater authority, and trespass farther upon the less powerful vassals of the empire. But while the electors were establishing their peculiar privilege, the class immediately inferior raised itself by important acquisitions of power. The German dukes, even after they became hereditary, did not succeed in compelling the chief nobility within their limits to hold their lands in fief, so completely as the peers of France had done. The nobles of Swabia refused to follow their duke into the field against the emperor Conrad II.† Of this aristocracy the superior class were denominated princes; an appellation which, after the eleventh century, distinguished them from the untitled nobility, most of whom were their vassals. They were constituent parts of all diets, and though gradually deprived of their original participation in electing an emperor, possessed, in all other respects, the same rights as the dukes, or electors. Some of them were fully equal to the electors, in birth as well as extent of dominions; such as the princely houses of Austria, Hesse, Brunswic and Misnia. By the division of Henry the Lion's vast territories,‡ and by the absolute extinction of the

Princes and
untitled in-
ferior nobi-
lity.

* Schmidt, t. iv. p. 78. 568. Putter, p. 274. Pfeffel, p. 435. 565. Struvius, p. 511.
† Pfeffel, p. 209.

‡ See the arrangements made in conse-

quence of Henry's forfeiture, which gave quite a new face to Germany, in Pfeffel, p. 334. also p. 437.

CHAP. V. Swabian family in the following century, a great many princes acquired additional weight. Of the ancient duchies, only Saxony and Bavaria remained; the former of which especially was so dismembered, that it was vain to attempt any renewal of the ducal jurisdiction. That of the emperor, formerly exercised by the counts palatine, went almost equally into disuse, during the contest between Philip and Otho IV. The princes accordingly had acted with sovereign independence within their own fiefs, before the reign of Frederic II.; but the legal recognition of their immunities was reserved for two edicts of that emperor; one, in 1220, relating to ecclesiastical, and the other, in 1232, to secular princes. By these he engaged neither to levy the customary imperial dues, nor to permit the jurisdiction of the palatine judges, within the limits of a state of the empire;* a concession, that amounted to little less than an abdication of his own sovereignty. From this epoch the territorial independence of the states may be dated.

A class of titled nobility, inferior to the princes, were the counts of the empire, who seem to have been separated from the former in the twelfth century, and to have lost at the same time their right of voting in the diets.† In some parts of Germany, chiefly in Franconia and upon the Rhine, there always existed a very numerous body of lower nobility; untitled, at least till modern times, but subject to no superior except the emperor. These are supposed to have become *immediate*, after the destruction of the house of Swabia, within whose duchies they had been comprehended.‡

Election of
Rodolph of
Hapsburgh.
1272

A short interval elapsed after the death of Richard of Cornwall, before the electors could be induced by the deplorable state of confusion into which Germany had fallen, to fill the imperial throne. Their choice was however the best that could have been made. It fell upon Rodolph count of Hapsburgh, a prince of very ancient

* Pfeffel, p. 384. Putter, p. 233.

† In the instruments relating to the election of Otho IV. the princes sign their names, Ego N. elegi et subscripsi. But the counts

only as follows: Ego N. consensi et subscripsi. Pfeffel, p. 360.

‡ Pfeffel, p. 445. Putter, p. 254. Struvius, p. 511.

family, and of considerable possessions as well in Swisserland as upon each bank of the Upper Rhine, but not sufficiently powerful to alarm the electoral oligarchy. Rodolph was brave, active, and just; but his characteristic quality appears to have been good sense, and judgement of the circumstances in which he was placed. Of this he gave a signal proof in relinquishing the favourite project of so many preceding emperors, and leaving Italy altogether to itself. At home, he manifested a vigilant spirit in administering justice, and is said to have destroyed seventy strong holds of noble robbers in Thuringia and other parts, bringing many of the criminals to capital punishment.* But he wisely avoided giving offence to the more powerful princes; and, during his reign, there were hardly any rebellions in Germany.

It was a very reasonable object of every emperor to aggrandize his family by investing his near kindred with vacant fiefs; but no one was so fortunate in his opportunities as Rodolph. At his accession, Austria, Styria, and Carniola were in the hands of Ottocar, king of Bohemia. These extensive and fertile countries had been formed into a march or margraviate, after the victories of Otho the Great over the Hungarians. Frederic Barbarossa created them into a duchy, with many distinguished privileges, especially that of female succession, hitherto unknown in the feudal principalities of Germany.† Upon the extinction of the house of

* Struvius, p. 530. Coxe's Hist. of House of Austria, p. 57. This valuable work contains a full and interesting account of Rodolph's reign.

† The privileges of Austria were granted to the margrave Henry in 1156, by way of indemnity for his restitution of Bavaria to Henry the Lion. The territory between the Inn and the Ems was separated from the latter province, and annexed to Austria at this time. The dukes of Austria are declared equal in rank to the palatine archdukes (*archi-ducibus palatinis*.) This expression gave a hint to the duke Rodolph IV. to assume the title of archduke of Austria. Schmidt, t. iii. p. 390. Frederic II.

even created the duke of Austria king; a very curious fact, though neither he nor his successors ever assumed the title. Struvius, p. 463. The instrument runs as follows: *Ducatus Austriæ et Styriæ, cum pertinentiis et terminis suis quot hactenus habuit, ad nomen et honorem regium transferentes, te hactenus ducatum prædictorum ducem, de potestatis nostræ plenitudine et magnificentia speciali promovemus in regem, per libertates et jura prædictum regnum tuum præsentis epigrammatis auctoritate donantes, quæ regiam deceant dignitatem: ut tamen ex honore quem tibi libenter addimus, nihil honoris et juris nostri diadematis aut imperii subtrahatur.*

CHAP.

V.

GER-
MANY.State of the
empire after
Rodolph.Investiture
of his son
Albert with
duchy of
Austria.

CHAP. Bamberg, who had enjoyed this duchy, it was granted by Frederic II.
 V. to a cousin of his own name; after whose death a disputed succe-
 GER- sion gave rise to several changes, and ultimately enabled Ottocar to
 MANY. gain possession of the country. Against this king of Bohemia,
 Rodolph waged two successful wars, and recovered the Austrian
 1283 provinces, which, as vacant fiefs, he conferred, with the consent of
 the diet, upon his son Albert.*

State of the
 empire after
 Rodolph.

Adolphus,
 1292.
 Albert I.
 1298.
 Henry VII.
 1308.
 Louis IV.
 1314.
 Charles IV.
 1347.
 Wenceslaus,
 1378.
 Robert,
 1400.
 Sigismund,
 1414.

Notwithstanding the merit and popularity of Rodolph, the electors refused to chuse his son king of the Romans in his life-time; and, after his death, determined to avoid the appearance of hereditary succession, put Adolphus of Nassau upon the throne. There is very little to attract notice in the domestic history of the empire during the next two centuries. From Adolphus to Sigismund, every emperor had either to struggle against a competitor, claiming the majority of votes at his election, or against a combination of the electors to dethrone him. The imperial authority became more and more ineffective; yet it was frequently made a subject of reproach against the emperors, that they did not maintain a sovereignty to which no one was disposed to submit.

It may appear surprizing, that the Germanic confederacy under the nominal supremacy of an emperor should have been preserved in circumstances apparently so calculated to dissolve it. But, besides the natural effect of prejudice and a famous name, there were sufficient reasons to induce the electors to preserve a form of government in which they bore so decided a sway. Accident had in a considerable degree restricted the electoral suffrages to seven princes. Without the college, there were houses more substantially powerful than any within it. The duchy of Saxony had been subdivided by repeated partitions among children, till the electoral right was vested in a prince who possessed only the small territory of Wittenberg. The great families of Austria, Bavaria, and Luxemburg, though not electoral, were the real heads of the German

* Struvius, p. 525. Schmidt. Coxe.

body; and though the two former lost much of their influence for a time through the pernicious custom of partition, the empire seldom looked for its head to any other house than one of these three.

CHAP.
V.GER-
MANY.Custom of
partition.

While the duchies and counties of Germany retained their original character of offices or governments, they were of course, even though considered as hereditary, not subject to partition among children. When they acquired the nature of fiefs, it was still consonant to the principles of a feudal tenure, that the eldest son should inherit according to the law of primogeniture; an inferior provision or apanage, at most, being reserved for the younger children. The law of England favoured the eldest exclusively; that of France gave him great advantages. But in Germany a different rule began to prevail about the thirteenth century.* An equal partition of the inheritance, without the least regard to priority of birth, was the general law of its principalities. Sometimes this was effected by undivided possession, or tenancy in common, the brothers residing together, and reigning jointly. This tended to preserve the integrity of dominion; but as it was frequently incommodious, a more usual practice was to divide the territory. From such partitions are derived those numerous independent principalities of the same house, many of which still subsist in Germany. In 1589, there were eight reigning princes of the Palatine family; and fourteen, in 1675, of that of Saxony.† Originally, these partitions were in general absolute and without reversion; but, as their effect in weakening families became evident, a practice was introduced of making compacts of reciprocal succession, by which a fief was prevented from escheating to the empire, until all the male posterity of the first feudatary should be extinct. Thus, while the German empire survived, all the princes of Hesse and Saxony had reciprocal contingencies of succession, or what our lawyers call cross-re-

* Schmidt, t. iv. p. 66. Pfeffel, p. 289. find the house of Baden divided into two branches, Baden and Hochberg, in 1190, till the latter end of the thirteenth century. with rights of mutual reversion.
This may be true, as a general rule; but I † Pfeffel, *ibid.* Putter, p. 189.

CHAP. V. mainders, to each other's dominions. A different system was gradually adopted. By the golden bull of Charles IV. the electoral territory, that is, the particular district to which the electoral suffrage was inseparably attached, became incapable of partition, and was to descend to the eldest son. In the fifteenth century, the present house of Brandenburg set the first example of establishing primogeniture by law; the principalities of Anspach and Bayreuth were dismembered from it for the benefit of younger branches; but it was declared that all the dominions of the family should for the future belong exclusively to the reigning elector. This politic measure was adopted in several other families; but, even in the sixteenth century, the prejudice was not removed, and some German princes denounced curses on their posterity, if they should introduce the impious custom of primogeniture.*

House of
Luxem-
burg.

Weakened by these subdivisions, the principalities of Germany in the fourteenth and fifteenth centuries shrink to a more and more diminutive size in the scale of nations. But one family, the most illustrious of the former age, was less exposed to this enfeebling system. Henry VII. count of Luxemburg, a man of much more personal merit than hereditary importance, was elevated to the empire in 1308. Most part of his short reign he passed in Italy; but he had a fortunate opportunity of obtaining the crown of Bohemia for his son. John king of Bohemia did not himself wear the imperial crown; but three of his descendants possessed it, with less interruption than could have been expected. His son Charles IV. succeeded Louis of Bavaria in 1347; not indeed without opposition, for a double election and a civil war were matters of course in Germany. Charles IV. has been treated with more derision by his contemporaries, and consequently by later writers, than almost any prince in history; yet he was remarkably successful in the only objects that he seriously pursued. Deficient in personal courage, insensible of humiliation, bending without shame to the

* Putter, p. 280

pope, to the Italians, to the electors, so poor and so little revered as to be arrested by a butcher at Worms for want of paying his demand, Charles IV. affords a proof that a certain dexterity and cold-blooded perseverance may occasionally supply, in a sovereign, the want of more respectable qualities. He has been reproached for neglecting the empire. But he never designed to trouble himself about the empire, except for his private ends. He did not neglect the kingdom of Bohemia, to which he almost seemed to render Germany a province. Bohemia had been long considered as a fief of the empire; and indeed could pretend to an electoral vote by no other title. Charles however gave the states by law the right of choosing a king, on the extinction of the royal family, which seems derogatory to the imperial prerogatives.* It was much more material, that, upon acquiring Brandenburg partly by conquest, and partly by a compact of succession in 1373, he not only invested his sons with it, which was conformable to usage, but annexed that electorate for ever to the kingdom of Bohemia.† He constantly resided at Prague, where he founded a celebrated university, and embellished the city with buildings. This kingdom, augmented also during his reign by the acquisition of Silesia, he bequeathed to his son Wenceslaus, for whom, by pliancy towards the electors and the court of Rome, he had procured, against all recent example, the imperial succession.‡

The reign of Charles IV. is distinguished in the constitutional history of the empire, by his Golden Bull; an instrument which finally ascertained the prerogatives of the electoral college. The Golden Bull terminated the disputes which had arisen between different members of the same house as to their right of suffrage, which was declared inherent in certain definite territories. The number was absolutely restrained to seven. The place of legal imperial elections was fixed at Frankfort; of coronations, at Aix-la-Chapelle; and the

Golden
Bull.

1355

* Struvius, p. 641.

† Pfeffel, p. 575. Schmidt, t. iv. p. 595.

‡ Struvius, p. 637.

CHAP. V. latter ceremony was to be performed by the archbishop of Cologne.

V.
GER-
MANY.

These regulations, though consonant to ancient usage, had not always been observed, and their neglect had sometimes excited questions as to the validity of elections. The dignity of elector was enhanced by the Golden Bull as highly as an imperial edict could carry it; they were declared equal to kings, and conspiracy against their persons incurred the penalty of high treason.* Many other privileges are granted to render them more completely sovereign within their dominions. It seems extraordinary, that Charles should have voluntarily elevated an oligarchy, from whose pretensions his predecessors had frequently suffered injury. But he had more to apprehend from the two great families of Bavaria and Austria, whom he relatively depressed by giving such a preponderance to the seven electors, than from any members of the college. By his compact with Brandenburg, he had a fair prospect of adding a second vote to his own; and there was more room for intrigue and management, which Charles always preferred to arms, with a small number, than with the whole body of princes.

Deposition
of Wences-
laus.

The next reign, nevertheless, evinced the danger of investing the electors with such preponderating authority. Wenceslaus, a supine and voluptuous man, less respected, and more negligent of Germany, if possible, than his father, was regularly deposed by a majority of the electoral college in 1400. This right, if it is to be considered as a right, they had already used against Adolphus of Nassau in 1298, and against Louis of Bavaria in 1346. They chose Robert Count Palatine instead of Wenceslaus; and though the latter did not cease to have some adherents, Robert has generally been counted among the lawful emperors.† Upon his death, the empire returned to the

* Pfeffel, p. 565. Putter, p. 271. Schmidt, t. iv. p. 566. The Golden Bull not only fixed the Palatine vote, in absolute exclusion of Bavaria; but settled a controversy of long standing between the two branches of the house of Saxony, Wittenberg and Lauenberg, in favour of the former.

† Many of the cities, besides some princes, continued to recognize Wenceslaus throughout the life of Robert; and the latter was so much considered as an usurper by foreign states, that his ambassadors were refused admittance at the council of Pisa. Struvius, p. 658.

house of Luxemburg; Wenceslaus himself waving his rights in favour of his brother Sigismund, king of Hungary.*

The house of Austria had hitherto given but two emperors to Germany, Rodolph its founder, and his son Albert, whom a successful rebellion elevated in the place of Adolphus. Upon the death of Henry of Luxemburg, in 1313, Frederic, son of Albert, disputed the election of Louis duke of Bavaria, alleging a majority of genuine votes. This produced a civil war, in which the Austrian party were entirely worsted. Though they advanced no pretensions to the imperial dignity during the rest of the fourteenth century, the princes of that line added to their possessions Carinthia, Istria and the Tyrol. As a counter-balance to these acquisitions, they lost a great part of their ancient inheritance by unsuccessful wars with the Swiss. According to the custom of partition, so injurious to princely houses, their dominions were divided among three branches: one reigning in Austria; a second in Styria, and the adjacent provinces; a third in the Tyrol and Alsace. This had in a considerable degree eclipsed the glory of the house of Hapsburg. But it was now its destiny to revive, and to enter upon a career of prosperity, which has never since been permanently interrupted. Albert, duke of Austria, who had married Sigismund's only daughter, the queen of Hungary and Bohemia, was raised to the imperial throne upon the death of his father-in-law in 1437. He died in two years, leaving his wife pregnant with a son, Ladislaus Posthumus, who afterwards reigned in the two kingdoms just mentioned; and the choice of the electors fell on Frederic, duke of Styria, second cousin of the last emperor, from whose posterity it never departed, except in a single instance, after the extinction of his male line in 1740.

Frederic III. reigned fifty-three years; a longer period than any of his predecessors; and his personal character was more insignifi-

CHAP.
V.

GER-
MANY.
House of
Austria.

Albert II.
1438

Reign of
Frederic III.
1440—
1493

* This election of Sigismund was not un-
contested: Josse, or Jodocus, margrave
of Moravia, having been chosen, as far as
appears, by a legal majority. However, his
death within three months removed the diffi-

culty; and Josse, who was not crowned at
Frankfort, has never been reckoned among
the emperors, though modern critics agree
that his title was legitimate. Struv. p. 684.
Pfeffel, p. 612

CHAP. cant. With better fortune than could be expected, considering both
 V. these circumstances, he escaped any overt attempt to depose him,
 GER- though such a project was sometimes in agitation. He reigned
 MANY. during an interesting age, full of remarkable events, and big with
 others of more leading importance. The destruction of the Greek
 empire, and appearance of the victorious crescent upon the Danube,
 gave an unhappy distinction to the earlier years of his reign, and
 displayed his mean and pusillanimous character in circumstances
 which demanded a hero. At a later season he was drawn into con-
 tentions with France and Burgundy, which ultimately produced a
 new and more general combination of European politics. Frederic,
 always poor, and scarcely able to protect himself in Austria from the
 seditions of his subjects, or the inroads of the king of Hungary, was
 yet the founder of his family, and left their fortunes incomparably
 more prosperous than at his accession. The marriage of his son
 Maximilian with the heiress of Burgundy began that aggrandizement
 of the house of Austria, which Frederic seems to have anticipated.*
 The electors, who had lost a good deal of their former spirit, and
 were grown sensible of the necessity of chusing a powerful sovereign,
 made no opposition to Maximilian's becoming king of the Romans
 in his father's life-time. The Austrian provinces were re-united,
 either under Frederic, or in the first years of Maximilian; so that, at
 the close of that period which we denominate the Middle Ages, the
 German empire, sustained by the patrimonial dominions of its chief,
 became again considerable in the scale of nations, and capable of
 preserving a balance between the ambitious monarchies of France
 and Spain.

Progress of
 free imperial
 cities.

The period between Rodolph and Frederic III. is distinguished by no

* The famous device of Austria, A. E. I. O. U. was first used by Frederic III. who adopted it on his plate, books and buildings. These initials stand for, *Austriæ Est Imperare Orbi Universo*; or, in German, *Alles Erdreich Ist Osterreich Unterthan*. A bold assumption for a man who was not safe in an

inch of his dominions. Struvius, p. 722. He confirmed the arch-ducal title of his family, which might seem implied in the original grant of Frederic I.; and bestowed other high privileges above all princes of the empire. These are enumerated in Coxe's *House of Austria*, vol. i. p. 263.

circumstance so interesting as the prosperous state of the free imperial cities, which had attained their maturity about the commencement of that interval. We find the cities of Germany, in the tenth century, divided into such as depended immediately upon the empire, which were usually governed by their bishop as imperial vicar, and such as were included in the territories of the dukes and counts.* Some of the former, lying principally upon the Rhine and in Franconia, acquired a certain degree of importance before the expiration of the eleventh century. Worms and Cologne manifested a zealous attachment to Henry IV. whom they supported in despite of their bishops.† His son Henry V. granted privileges of enfranchisement to the inferior townsmen or artizans, who had hitherto been distinguished from the upper class of freemen, and particularly relieved them from oppressive usages, which either gave the whole of their moveable goods to the lord upon their decease, or at least enabled him to seize the best chattel as his heriot.‡ He took away the temporal authority of the bishop, at least in several instances; and restored the cities to a more immediate dependence upon the empire. The citizens were classed in companies, according to their several occupations; an institution which was speedily adopted in other commercial countries. It does not appear, that any German city had obtained, under this emperor, those privileges of chusing its own magistrates, which were conceded about the same time, in a few instances, to those of France.§ Gradually, however, they began to elect councils of citizens, as a sort of senate and magistracy. This innovation might perhaps take place as early as the reign of Frederic I.|| at least it was fully established in that of his grandson. They were at first only assistants to

* Pfeffel, p. 187. The Othos adopted the same policy in Germany which they had introduced in Italy, conferring the temporal government of cities upon the bishops; probably as a counterbalance to the lay aristocracy. Putter, p. 136. Struvius, p. 252.

† Schmidt, t. iii. p. 239.

‡ Id. p. 242. Pfeffel, p. 293. Dumont, Corps Diplomatique, t. i. p. 64.

§ Schmidt, p. 245.

|| In the charter granted by Frederic I. to Spire in 1182, confirming and enlarging that of Henry V. though no express mention is made of any municipal jurisdiction, yet it seems implied in the following words: *Causam in civitate jam lite contestatam non episcopus aut alia potestas extra civitatem determinari compellet.* Dumont, p. 108.

CHAP. the imperial or episcopal bailiff, who probably continued to administer criminal justice. But in the thirteenth century, the citizens, grown richer and stronger, either purchased the jurisdiction, or usurped it through the lord's neglect, or drove out the bailiff by force.* The great revolution in Franconia and Swabia occasioned by the fall of the Hohenstauffen family completed the victory of the cities. Those which had depended upon mediate lords became immediately connected with the empire; and with the empire in its state of feebleness, when an occasional present of money would easily induce its chief to acquiesce in any claims of immunity which the citizens might prefer.

V.
GER-
MANY.

It was a natural consequence of the importance which the free cities had reached, and of their immediacy, that they were admitted to a place in the diets, or general meetings of the confederacy. They were tacitly acknowledged to be equally sovereign with the electors and princes. No proof exists of any law, by which they were adopted into the diet. We find it said, that Rodolph of Hapsburg, in 1291, renewed his oath with the princes, lords and cities. Under the emperor Henry VII. there is unequivocal mention of the three orders composing the diet; electors, princes, and deputies from cities.† And in 1344, they appear as a third distinct college in the diet of Frankfort.‡

The inhabitants of these free cities always preserved their respect for the emperor, and gave him much less vexation than his other subjects. He was indeed their natural friend. But the nobility and prelates were their natural enemies; and the western parts of Germany were the scenes of irreconcilable warfare between the possessors of fortified castles and the inhabitants of fortified cities. Each party was frequently the aggressor. The nobles were too often mere robbers, who lived upon the plunder of travellers. But the citizens

* Schmidt, t. iv. p. 96. Pfeffel, p. 441.

† Mansit ibi rex sex hebdomadibus cum principibus electoribus et aliis principibus et civitatum nuntiis, de suo transitu et de præ-

standis servitiis in Italiam disponendo. Auctor apud Schmidt, t. vi. p. 31.

‡ Pfeffel, p. 552.

were almost equally inattentive to the rights of others. It was their policy to offer the privileges of burghership to all strangers. The peasantry of feudal lords, flying to a neighbouring town, found an asylum constantly open. A multitude of aliens, thus seeking as it were sanctuary, dwelt in the suburbs or liberties, between the city walls and the palisades which bounded the territory. Hence they were called Pfahlburger, or burgesses of the palisades; and this encroachment on the rights of the nobility was positively, but vainly, prohibited by several imperial edicts, especially the Golden Bull. Another class were the Ausburger, or outburghers, who had been admitted to privileges of citizenship, though resident at a distance, and pretended in consequence to be exempted from all dues to their original feudal superiors. If a lord resisted so unreasonable a claim, he incurred the danger of bringing down upon himself the vengeance of the citizens. These outburghers are in general classed under the general name of Pfahlburger by contemporary writers.*

As the towns were conscious of the hatred which the nobility bore towards them, it was their interest to make a common cause, and render mutual assistance. From this necessity of maintaining, by united exertions, their general liberty, the German cities never suffered the petty jealousies, which might no doubt exist among them, to ripen into such deadly feuds as sullied the glory, and ultimately destroyed the freedom of Lombardy. They withstood the bishops and barons by confederacies of their own, framed expressly to secure their commerce against rapine, or unjust exactions of toll. More than sixty cities, with the three ecclesiastical electors at their head, formed the league of the Rhine in 1255, to repel the inferior nobility, who, having now become immediate, abused that independence by perpetual robberies.† The Hanseatic union owes its origin to no other cause, and may be traced perhaps to rather a higher date. About the year 1370 a league was formed, which, though it did not

* Schmidt, t. iv. p. 98. t. vi. p. 76. Pfeffel, p. 402. Du Cange, Gloss. v. Pfalburger. Fauxbourg is derived from this word.

† Struvius, p. 498. Schmidt, t. iv. p. 101. Pfeffel, p. 416.

CHAP. continue so long, seems to have produced more striking effects in
 V. Germany. The cities of Swabia and the Rhine united themselves in
 GER- a strict confederacy against the princes, and especially the families
 MANY. of Wirtemberg and Bavaria. It is said that the emperor Wenceslaus secretly abetted their projects. The recent successes of the Swiss, who had now almost established their republic, inspired their neighbours in the empire with expectations which the event did not realize; for they were defeated in this war, and ultimately compelled to relinquish their league. Counter-associations were formed by the nobles, styled the society of St. George, St. William, the Lion, or the Panther.*

Provincial
 states of the
 empire.

The spirit of political liberty was not confined to the free immediate cities. In all the German principalities, a form of limited monarchy prevailed, reflecting, on a reduced scale, the general constitution of the empire. As the emperors shared their legislative sovereignty with the diet, so all the princes who belonged to that assembly had their own provincial states, composed of their feudal vassals, and of the mediate towns within their territory. No tax could be imposed without consent of the states; and, in some countries, the prince was obliged to account for the proper disposition of the money granted. In all matters of importance affecting the principality, and especially in cases of partition, it was necessary to consult them; and they sometimes decided between competitors in a disputed succession, though this indeed more strictly belonged to the emperor. The provincial states concurred with the prince in making laws, except such as were enacted by the general diet. The city of Wurtzburg, in the fourteenth century, tells its bishop, that if a lord would make any new ordinance, the custom is that he must consult the citizens, who have always opposed his innovating upon the ancient laws without their consent.†

* Struvius, p. 649. Pfeffel, p. 586.
 Schmidt, t. v. p. 10. t. vi. p. 78. Putter,
 p. 294.

† Schmidt, t. vi. p. 8. Putter, p. 236.

The ancient imperial domain, or possessions which belonged to the chief of the empire as such, had originally been very extensive. Besides large estates in every province, the territory upon each bank of the Rhine, afterwards occupied by the Counts Palatine, and ecclesiastical electors, was, until the thirteenth century, an exclusive property of the emperor. This imperial domain was deemed so adequate to the support of his dignity, that it was usual, if not obligatory, for him to grant away his patrimonial domains upon his election. But the necessities of Frederic II., and the long confusion that ensued upon his death, caused the domain to be almost entirely dissipated. Rodolph made some efforts to retrieve it, but too late; and the poor remains of what had belonged to Charlemagne and Otho were alienated by Charles IV.* This produced a necessary change in that part of the constitution which deprived an emperor of hereditary possessions. It was however some time before it took place. Even Albert I. conferred the duchy of Austria upon his sons when he was chosen emperor.† Louis of Bavaria was the first who retained his hereditary dominions, and made them his residence.‡ Charles IV. and Wenceslaus lived almost wholly in Bohemia; Sigismund chiefly in Hungary; Frederic III. in Austria. This residence in their hereditary countries, while it seemed rather to lower the imperial dignity, and to lessen their connexion with the general confederacy, gave them intrinsic power and influence. If the emperors of the houses of Luxemburg and Austria were not like the Conrads and Frederics, they were at least very superior in importance to the Williams and Adolphuses of the thirteenth century.

The accession of Maximilian nearly coincides with the expedition of Charles VIII. against Naples; and I should here close the German history of the middle age, were it not for the great epoch which is made by the diet of Worms in 1495. This assembly is celebrated

CHAP.
V.GER-
MANY.Alienation
of the im-
perial do-
main.Accession of
Maximilian.
Diet of
Worms.

1495

* Pfeffel, p. 580.

† Id. p. 494. Struvius, p. 546.

‡ Struvius, p. 611. In the capitulation of Robert, it was expressly provided, that

he should retain any escheated fief for the domain, instead of granting it away; so completely was the public policy of the empire reversed. Schmidt, t. v. p. 44.

CHAP. for the establishment of a perpetual public peace, and of a paramount court of justice, the Imperial Chamber.

V.

GER-
MANY.

Establish-
ment of
public
peace.

The same causes which produced continual hostilities among the French nobility, were not likely to operate less powerfully on the Germans, equally warlike with their neighbours, and rather less civilized. But while the imperial government was still vigorous, they were kept under some restraint. We find Henry III., the most powerful of the Franconian emperors, forbidding all private defiance, and establishing solemnly a general peace.* After his time, the natural tendency of manners overpowered all attempts to coerce it, and private war raged without limits in the empire. Frederic I. endeavoured to repress it by a regulation which admitted its legality. This was the law of defiance (*jus diffidationis*) which required a solemn declaration of war, and three days notice, before the commencement of hostile measures. All persons contravening this provision were deemed robbers and not legitimate enemies.† Frederic II. carried the restraint farther, and limited the right of self-redress to cases where justice could not be obtained. Unfortunately there was, in later times, no sufficient provision for rendering justice. The German empire indeed had now assumed so peculiar a character, and the mass of states who composed it were in so many respects sovereign within their own territories, that wars, unless in themselves unjust, could not be made a subject of reproach against them, nor considered, strictly speaking, as private. It was certainly most desirable to put an end to them by common agreement, and by the only means that could render war unnecessary, the establishment of a supreme jurisdiction. War indeed, legally undertaken, was not the only, nor the severest grievance. A very large proportion of the rural nobility lived by robbery.‡ Their castles, as the ruins still

* Pfeffel, p. 212.

† Schmidt, t. iv. p. 108. et infra. Pfeffel, p. 340. Putter, p. 205.

‡ Germani atque Alemanni, quibus census patrimonii ad victum suppetit, et hos qui

procul urbibus, aut qui castellis et oppidulis dominantur, quorum magna pars latrocinio deditur, nobiles censent. Pet. de Andlō, apud Schmidt, t. v. p. 490.

bear witness, were erected upon inaccessible hills, and in defiles that command the public road. An archbishop of Cologne having built a fortress of this kind, the governor inquired how he was to maintain himself, no revenue having been assigned for that purpose. The prelate only desired him to remark, that the castle was situated near the junction of four roads.* As commerce increased, and the example of French and Italian civilization rendered the Germans more sensible to their own rudeness, the preservation of public peace was loudly demanded. Every diet under Frederic III. professed to occupy itself with the two great objects of domestic reformation, peace and law. Temporary cessations, during which all private hostility was illegal, were sometimes enacted; and if observed, which may well be doubted, might contribute to accustom men to habits of greater tranquillity. The leagues of the cities were probably more efficacious checks upon the disturbers of order. In 1486 a ten years peace was proclaimed, and before the expiration of this period the perpetual abolition of the right of defiance was happily accomplished in the diet of Worms.†

These wars, incessantly waged by the states of Germany, seldom ended in conquest. Very few princely houses of the middle ages were aggrandized by such means. That small and independent nobility, the counts and knights of the empire, whom the unprincipled rapacity of our own age has annihilated, stood through the storms of centuries with little diminution of their numbers. An incursion into the enemy's territory, a pitched battle, a siege, a treaty, are the general circumstances of the minor wars of the middle ages, as far as they appear in history. Before the invention of artillery, a strongly fortified castle, or walled city, was hardly reduced except by famine, which a besieging army, wasting improvidently its means of subsistence, was full as likely to feel. That invention altered the condition of society, and introduced an inequality of

* Quem cum officiatus suus interrogans, de quo castrum deberet retinere, cum annuis careret redditibus, dicitur respondisse: Quatuor viæ sunt trans castrum situatæ. Auctor apud Schmidt, p. 492.

† Schmidt, t. iv. p. 116, t. v. p. 338. 371. t. vi. p. 34. Putter, p. 292. 348.

CHAP. V.
 GER-
 MANY. forces, that rendered war more inevitably ruinous to the inferior party. Its first and most beneficial effect was to bring the plundering class of the nobility into controul; their castles were more easily taken, and it became their interest to deserve the protection of law. A few of these continued to follow their old profession after the diet of Worms; but they were soon overpowered by the more efficient police established under Maximilian.

Imperial
 Chamber.

The next object of the diet was to provide an effectual remedy for private wrongs which might supersede all pretence for taking up arms. The administration of justice had always been a high prerogative as well as bounden duty of the emperors. It was exercised originally by themselves in person, or by the Count Palatine, the judge who always attended their court. In the provinces of Germany, the dukes were entrusted with this duty; but, in order to controul their influence, Otho the Great appointed provincial counts palatine, whose jurisdiction was in some respects exclusive of that still possessed by the dukes. As the latter became more independent of the empire, the provincial counts palatine lost the importance of their office, though their name may be traced to the twelfth and thirteenth centuries.* The ordinary administration of justice by the emperors went into disuse; in cases where states of the empire were concerned, it appertained to the diet, or to a special court of princes. The first attempt to re-establish an imperial tribunal was made by Frederic II. in a diet held at Mentz in 1235. A judge of the court was appointed to sit daily, with certain assessors, half nobles, half lawyers, and with jurisdiction over all causes, where princes of the empire were not concerned.† Rodolph of Hapsburg endeavoured to give efficacy to this judicature; but after his reign, it underwent the fate of all those parts of the Germanic constitution which maintained the prerogatives of the emperors. Sigismund endeavoured to revive this tribunal; but as he did not render it permanent, nor fix the place of its sittings, it produced little other good than that it excited an earnest anxiety for

* Pfeffel, p. 180.

† Idem, p. 386. Schmidt, t. iv. p. 56.

a regular system. This system, delayed throughout the reign of Frederic III., was reserved for the first diet of his son.*

CHAP.
V.
GER-
MANY.

The Imperial Chamber, such was the name of the new tribunal, consisted, at its original institution, of a chief judge, who was to be chosen among the princes or counts, and of sixteen assessors, partly of noble or equestrian rank, partly professors of law. They were named by the emperor with the approbation of the diet. The functions of the Imperial Chamber were chiefly the two following. They exercised an appellant jurisdiction over causes that had been decided by the tribunals established in states of the empire. But their jurisdiction in private causes was merely appellant. According to the original law of Germany, no man could be sued except in the nation or province to which he belonged. The early emperors travelled from one part of their dominions to another, in order to render justice consistently with this fundamental privilege. When the Luxemburg emperors fixed their residence in Bohemia, the jurisdiction of the imperial court in the first instance would have ceased of itself by the operation of this ancient rule. It was not however strictly complied with, and it is said that the emperors had a concurrent jurisdiction with the provincial tribunals even in private causes. They divested themselves, nevertheless, of this right by granting privileges *de non evocando*; so that no subject of a state which enjoyed such a privilege could be summoned into the imperial court. All the electors possessed this exemption by the terms of the Golden Bull; and it was specially granted to the burgraves of Nuremberg, and some other princes. This matter was finally settled at the diet of Worms; and the Imperial Chamber was positively restricted from taking cognizance of any causes in the first instance, even where a state of the empire was one of the parties. It was enacted, to obviate the denial of justice that appeared likely to result from this regulation in the latter case, that every elector and prince should

* Pfeffel, t. ii. p. 66.

CHAP. establish a tribunal in his own dominions, wherein suits against himself might be entertained.*

V.

GER-
MANY.

The second part of the chamber's jurisdiction related to disputes between two states of the empire. But these too could only come before it by way of appeal. During the period of anarchy which preceded the establishment of its jurisdiction, a custom was introduced, in order to prevent the constant recurrence of hostilities, of referring the quarrels of states to certain arbitrators, called Austregues, chosen among states of the same rank. This conventional reference became so popular that the princes would not consent to abandon it on the institution of the Imperial Chamber; but, on the contrary, it was changed into an invariable and universal law, that all disputes between different states must, in the first instance, be submitted to the arbitration of Austregues.†

Establish-
ment of
circles.

The sentences of the chamber would have been very idly pronounced, if means had not been devised to carry them into execution. In earlier times the want of coercive process had been more felt than that of actual jurisdiction. For a few years after the establishment of the chamber, this deficiency was not supplied. But in 1501 an institution originally planned under Wenceslaus, and attempted by Albert II., was carried into effect. The empire, with the exception of the electorates, and the Austrian dominions, was divided into six circles; each of which had its council of states, its director whose province it was to convoke them, and its military force to compel obedience. In 1512 four more circles were added, comprehending those states which had been excluded in the first division. It was the business of the police of the circles to enforce the execution of sentences pronounced by the Imperial Chamber against refractory states of the empire.‡

Aulic
Council.

As the judges of the Imperial Chamber were appointed with the consent of the diet, and held their sittings in a free imperial city, its

* Schmidt, t. v. p. 373. Putter, p. 372. † Putter, p. 355. Pfeffel, t. ii. p. 100.
‡ Putter, p. 361. Pfeffel, p. 452.

establishment seemed rather to encroach on the ancient prerogatives of the emperors. Maximilian expressly reserved these in consenting to the new tribunal. And, in order to revive them, he soon afterwards instituted an Aulic Council at Vienna, composed of judges appointed by himself, and under the political controul of the Austrian government. Though some German patriots regarded this tribunal with jealousy, it continued until the dissolution of the empire. The aulic council had, in all cases, a concurrent jurisdiction with the Imperial Chamber; an exclusive one in feudal, and some other causes. But it was equally confined to cases of appeal; and these, by multiplied privileges *de non appellando*, granted to the electoral and superior princely houses, were gradually reduced into moderate compass.*

CHAP.
V.
GER-
MANY.

The Germanic constitution may be reckoned complete, as to all its essential characteristics, in the reign of Maximilian. In later times, and especially by the treaty of Westphalia, it underwent several modifications. Whatever might be its defects, and many of them seem to have been susceptible of reformation without destroying the system of government, it had one invaluable excellence. It protected the rights of the weaker against the stronger powers. The law of nations was first taught in Germany, and grew out of the public law of the empire. To narrow, as far as possible, the rights of war and of conquest, was a natural principle of those who belonged to petty states, and had nothing to tempt them in ambition. No revolution of our own eventful age, except the fall of the ancient French system of government, has been so extensive, or so likely to produce important consequences, as the spontaneous dissolution of the German empire. Whether the new confederacy that has been substituted for that venerable constitution will be equally favourable to peace, justice, and liberty, is among the most interesting and difficult problems that can occupy a philosophical observer.

At the accession of Conrad the First, Germany had by no means

Limits of
the empire.

* Putter, p. 357. Pfeffel, p. 102.

CHAP. V. reached its present extent on the eastern frontier. Henry the Fowler and the Othos made great acquisitions upon that side. But tribes of Slavonian origin, generally called Venedic, or, less properly, Vandal, occupied the northern coast from the Elbe to the Vistula. These were independent and formidable both to the kings of Denmark and princes of Germany, till, in the reign of Frederic Barbarossa, two of the latter, Henry the Lion, duke of Saxony, and Albert the Bear, margrave of Brandenburg, subdued Mecklenburg and Pomerania; which afterwards became duchies of the empire. Bohemia was undoubtedly subject, in a feudal sense, to Frederic I. and his successors; though its connexion with Germany was always slight. The emperors sometimes assumed a sovereignty over Denmark, Hungary, and Poland. But what they gained upon this quarter, was compensated by the gradual separation of the Netherlands from their dominion, and by their still more complete loss of the kingdom of Arles. The house of Burgundy possessed most part of the former, and paid as little regard as possible to the imperial supremacy; though the German diets in the reign of Maximilian still continued to treat the Netherlands as equally subject to their lawful controul with the states on the right bank of the Rhine. But the provinces between the Rhone and the Alps were absolutely separated; Swisserland had completely succeeded in establishing her own independence; and the kings of France no longer sought even the ceremony of an imperial investiture for Dauphiné and Provence.

Bohemia—
its constitu-
tion.

Bohemia, which received the Christian faith in the tenth century, was elevated to the rank of a kingdom near the end of the twelfth. The dukes and kings of Bohemia were feudally dependent upon the emperors, from whom they received investiture. They possessed, in return, a suffrage among the seven electors, and held one of the great offices in the imperial court. But separated by a rampart of mountains, by difference of origin and language, and perhaps by national prejudices from Germany, the Bohemians withdrew as far as possible from the general politics of the confederacy. The kings obtained dispensations from attending the diets of the empire, nor

were they able to reinstate themselves in the privilege thus abandoned till the beginning of the last century.* The government of this kingdom, in a very slight degree partaking of the feudal character,† bore rather a resemblance to that of Poland; but the nobility were divided into two classes, the baronial and the equestrian, and the burghers formed a third state in the national diet. For the peasantry, they were in a condition of servitude, or predial villenage. The royal authority was restrained by a coronation oath, by a permanent senate, and by frequent assemblies of the diet, where a numerous and armed nobility appeared to secure their liberties by law or force.‡ The sceptre passed, in ordinary times, to the nearest heir of the royal blood; but the right of election was only suspended, and no king of Bohemia ventured to boast of it as his inheritance.§ This mixture of elective and hereditary monarchy was common, as we have seen, to most European kingdoms in their original constitution, though few continued so long to admit the participation of popular suffrages.

The reigning dynasty having become extinct in 1306, by the death of Wenceslaus, son of that Ottocar who, after extending his conquests to the Baltic sea, and almost to the Adriatic, had lost his life in an unsuccessful contention with the emperor Rodolph, the Bohemians chose John of Luxemburg, son of Henry VII. Under the kings of this family in the fourteenth century, and especially Charles IV., whose character appeared in a far more advantageous light in his native domains than in the empire, Bohemia imbibed some portion of refinement and science.|| An university erected by

CHAP.

V.

GER-
MANY.House of
Luxemburg.

* Pfeffel, t. ii. p. 497.

† Bona ipsorum totâ Bohemiâ pleraque omnia hæreditaria sunt seu alodialia, per pauca feudalâ. Stransky, Resp. Bohemica. p. 392. Stransky was a Bohemian protestant, who fled to Holland after the subversion of the civil and religious liberties of his country by the fatal battle of Prague in 1621.

‡ Dubravius, the Bohemian historian, relates, (lib. xviii.) that the kingdom having no written laws, Wenceslaus, one of their kings,

about the year 1300, sent for an Italian lawyer to compile a code. But the nobility refused to consent to this: aware, probably, of the consequences of letting in the prerogative doctrines of the civilians. They opposed, at the same time, the institution of an university at Prague, which however took place afterwards under Charles IV.

§ Stransky, Resp. Bohem. Coxe's House of Austria, p. 487.

|| Schmidt. Coxe.

CHAP. Charles at Prague became one of the most celebrated in Europe.

V.

GER-
MANY.

John Huss.

1416

Hussite war.

John Zisca.

John Huss, rector of the university, who had distinguished himself by opposition to many abuses then prevailing in the church, repaired to the council of Constance, under a safe conduct from the emperor Sigismund. In violation of this pledge, to the indelible infamy of that prince and of the council, he was condemned to be burned; and his disciple, Jerome of Prague, underwent afterwards the same fate. His countrymen, aroused by this atrocity, flew to arms. They found at their head one of those extraordinary men, whose genius, created by nature and called into action by fortuitous events, appears to borrow no reflected light from that of others. John Zisca had not been trained in any school which could have initiated him in the science of war; that indeed, except in Italy, was still rude, and no where more so than in Bohemia. But, self-taught, he became one of the greatest captains who had appeared hitherto in Europe. It renders his exploits more marvellous, that he was totally deprived of sight. Zisca has been called the inventor of the modern art of fortification: the famous mountain near Prague, fanatically called Tabor, became by his skill an impregnable entrenchment. For his stratagems, he has been compared to Hannibal. In battle, being destitute of cavalry, he disposed at intervals ramparts of carriages filled with soldiers, to defend his troops from the enemy's horse. His own station was by the chief standard, where, after hearing the circumstances of the situation explained, he gave his orders for the disposition of the army. Zisca was never defeated; and his genius inspired the Hussites with such enthusiastic affection, that some of those who had served under him, refused to obey any other general, and denominated themselves Orphans, in commemoration of his loss. He was indeed a ferocious enemy, though some of his cruelties might, perhaps, be extenuated by the law of retaliation; but to his soldiers affable and generous, dividing among them all the spoil.*

* Lenfant, Hist. de Guerre des Hussites. Schmidt. Coxen

Even during the life-time of Zisca, the Hussite sect was disunited; the citizens of Prague and many of the nobility contenting themselves with moderate demands, while the Taborites, his peculiar followers, were actuated by a most fanatical frenzy. The former took the name of Calixtins, from their retention of the sacramental cup, of which the priests had latterly thought fit to debar laymen; an abuse not indeed sufficient to justify a civil war, but so totally without pretence or apology, that nothing less than the determined obstinacy of the Romish church could have maintained it to this time. The Taborites, though no longer led by Zisca, gained some remarkable victories, but were at last wholly defeated; while the Catholic and Calixtin parties came to an accommodation, by which Sigismund was acknowledged as king of Bohemia, which he had claimed by the title of heir to his brother Wenceslaus, and a few indulgencies, especially the use of the sacramental cup, conceded to the moderate Hussites. But this compact, though concluded by the council of Basle, being ill observed, through the perfidious bigotry of the See of Rome, the reformers armed again to defend their religious liberties, and ultimately elected a nobleman of their own party, by name George Podiebrad, to the throne of Bohemia, which he maintained during his life with great vigour and prudence.* Upon his death, they chose Uladislaus, son of Casimir king of Poland, who afterwards obtained also the kingdom of Hungary. Both these crowns were conferred on his son Louis, after whose death in the unfortunate battle of Mohacz, Ferdinand of Austria became sovereign of the two kingdoms.

The Hungarians, that terrible people who laid waste the Italian and German provinces of the empire in the tenth century, became proselytes soon afterwards to the religion of Europe, and their sovereign, St. Stephen, was admitted by the pope into the list of Christian kings. Though the Hungarians were of a race perfectly distinct from either the Gothic or the Slavonian tribes, their system

* Lenfant. Schmidt. Coxe.

CHAP.
V.

GER-
MANY.

1424

Calixtins.

1433

1458

1471

1527

Hungary.

CHAP. of government was in a great measure analogous. None indeed
 V. could be more natural to rude nations, who had but recently accus-
 GER- tomed themselves to settled possessions, than a territorial aristocracy,
 MANY. jealous of unlimited or even hereditary power in their chieftain, and
 subjugating the inferior people to that servitude, which, in such a
 state of society, is the unavoidable consequence of poverty.

The marriage of an Hungarian princess with Charles II. king of
 Naples, eventually connected her country far more than it had been
 with the affairs of Italy. I have mentioned in a different place the
 circumstances which led to the invasion of Naples by Louis king of
 Hungary, and the wars of that powerful monarch with Venice.
 Sigismund. By marrying the eldest daughter of Louis, Sigismund, afterwards
 1392 emperor, acquired the crown of Hungary, which upon her death
 without issue he retained in his own right, and was even able to
 transmit to the child of a second marriage, and to her husband,
 Albert duke of Austria. From this commencement is deduced the
 1437 connexion between Hungary and Austria. In two years, however,
 Albert dying left his widow pregnant; but the states of Hungary,
 jealous of Austrian influence, and of the intrigues of a minority,
 without waiting for her delivery, bestowed the crown upon Uladis-
 laus, king of Poland. The birth of Albert's posthumous son,
 Ladislaus, produced an opposition in behalf of the infant's right;
 but the Austrian party turned out the weaker, and Uladislaus after
 a civil war of some duration became undisputed king. Meanwhile
 a more formidable enemy drew near. The Turkish arms had
 subdued all Servia, and excited a just alarm throughout Christen-
 dom. Uladislaus led a considerable force, to which the presence of
 the cardinal Julian gave the appearance of a crusade, into Bulgaria,
 and after several successes, concluded an honourable treaty with
 Amurath II. But this he was unhappily persuaded to violate, at
 the instigation of the cardinal, who abhorred the impiety of keeping
 faith with infidels.* Heaven judged of this otherwise, if the judge-

Battle of
 Warn.

1444

* Æneas Sylvius lays this perfidy on Pope
 Eugenius IV. Scripsit Cardinali, nullum
 valere foedus, quod se inconsulto cum hos-

tibus religionis percussum esset. p. 397.
 The words in italics are slipped in, to give a
 slight pretext for breaking the treaty.

ment of heaven was pronounced upon the field of Wana. In that fatal battle Uladislauſ was killed, and the Hungarians utterly routed. The crown was now permitted to reſt on the head of young Ladislauſ; but the regency was allotted by the ſtates of Hungary to a native warrior, John Hunniades.* This hero ſtood in the breach for twelve years againſt the Turkiſh power, frequently defeated, but unconquered in defeat. If the renown of Hunniades may ſeem exaggerated by the partiality of writers who lived under the reign of his ſon, it is confirmed by more unequivocal evidence, by the dread and hatred of the Turks, whoſe children were taught obedience by threatening them with his name, and by the deference of a jealous ariſtocracy to a man of no diſtinguiſhed birth. He ſurrendered to young Ladislauſ a truſt that he had exerciſed with perfect fidelity; but his merit was too great to be forgiven, and the court never treated him with cordiality. The laſt, and the moſt ſplendid ſervice of Hunniades was the relief of Belgrade. That ſtrong city was beſieged by Mahomet II. three years after the fall of Conſtantinople; its capture would have laid open all Hungary. A tumultuary army, chiefly collected by the preaching of a friar, was entrusted to Hunniades; he penetrated into the city, and having repulſed the Turks in a fortunate ſally, wherein Mahomet was wounded, had the honour of compelling him to raiſe the ſiege in confuſion. The relief of Belgrade was more important in its effect than in its immediate circumſtances. It revived the ſpirits of

CHAP.

V.

GER.
MANY.

Hunniades.

Relief of
Belgrade.

1456

* Hunniades was a Walachian, of a ſmall family. The Poles charged him with cowardice at Wana. (*Æneas Sylvius*, p. 398.) And the Greeks impute the ſame to him, or at leaſt deſertion of his troops, at Coſſova, where he was defeated in 1448. (*Spondanus*, ad ann. 1448.) Probably he was one of thoſe prudently brave men, who, when victory is out of their power, reſerve themſelves to fight another day; which is the character of all partizans accuſtomed to deſultory warfare. This is the apology made for him by *Æneas Sylvius*: *fortaſſe rei militaris perito nulla in pugna ſalus viſa, et*

ſalvare aliquos quam omnes perire maluit. Poloni acceptam eo prælio cladem Hunniadis vecordiæ atque ignaviæ tradiderunt; ipſe ſua conſilia ſpreta conqueſtus eſt. I obſerve that all the writers upon Hungarian affairs have a party bias one way or other. The beſt and moſt authentic account of Hunniades ſeems to be, ſtill allowing for this partiality, in the chronicle of John Thwroc, who lived under Matthias. Bonfinius, an Italian compiler of the ſame age, has amplified this original authority in his three decads of Hungarian hiſtory.

CHAP. Europe, which had been appalled by the unceasing victories of the
 V. infidels. Mahomet himself seemed to acknowledge the importance
 of the blow, and seldom afterwards attacked the Hungarians.
 GER- Hunniades died soon after this atchievement, and was followed by
 MANY. the king Ladislaus.* The states of Hungary, although the emperor
 Frederic III. had secured to himself, as he thought, the reversion,
 were justly averse to his character, and to Austrian connexions.
 Matthias They conferred their crown on Matthias Corvinus, son of their great
 Corvinus. Hunniades. This prince reigned above thirty years with consider-
 1458 able reputation, to which his patronage of learned men, who repaid
 his munificence with very profuse eulogies, did not a little contri-
 bute.† Hungary at least in his time was undoubtedly formidable
 to her neighbours, and held a respectable rank as an independent
 power in the republic of Europe.

Swisserland
 —its early
 history.

1032

The kingdom of Burgundy or Arles comprehended the whole
 mountainous region which we now call Swisserland. It was accor-
 dingly re-united to the Germanic empire by the bequest of
 Rodolph along with the rest of his dominions. A numerous and
 ancient nobility, vassals one to another, or to the empire, divided
 the possession with ecclesiastical lords, hardly less powerful than
 themselves. Of the former we find the counts of Zæringen, Kyburg,
 Hapsburg, and Tokenburg most conspicuous; of the latter, the
 bishop of Coire, the abbot of St. Gall, and abbess of Seckingen.
 Every variety of feudal rights was early found and long preserved in
 Helvetia; nor is there any country whose history better illustrates

* Ladislaus died at Prague, at the age of twenty-two, with great suspicion of poison, which fell chiefly on George Podiebrad and the Bohemians. Æneas Sylvius was with him at the time, and in a letter written immediately after, plainly hints this; and his manner carries with it more persuasion than if he had spoken out. Epist. 324. Mr. Coxe, however, informs us that the Bohemian historians have fully disproved the charge.

† Spondanus frequently blames the Ita-

lians, who received pensions from Matthias, or wrote at his court, for exaggerating his virtues, or dissembling his misfortunes. And this was probably the case. However, Spondanus has rather contracted a prejudice against the Corvini. A treatise of Galeotus Martius, an Italian *litterateur*, De dictis et factis Mathiæ, though it often notices an ordinary saying as *jocosè* or *facetè dictum*, gives a favourable impression of Matthias's ability, and also of his integrity.

that ambiguous relation, half property and half dominion, in which the territorial aristocracy, under the feudal system, stood with respect to their dependents. In the twelfth century, the Swiss towns rise into some degree of importance. Zurich was eminent for commercial activity, and seems to have had no lord but the emperor. Basle, though subject to its bishop, possessed the usual privileges of municipal government. Berne and Friburg, founded only in that century, made a rapid progress, and the latter was raised, along with Zurich, by Frederic II. in 1218, to the rank of a free imperial city. Several changes in the principal Helvetian families took place in the thirteenth century, before the end of which the house of Hapsburg, under the politic and enterprising Rodolph, and his son Albert, became possessed, through various titles, of a great ascendancy in Switzerland.*

CHAP.
V.
GER-
MANY.

Of these titles none was more tempting to an ambitious chief, than that of advocate to a convent. That specious name conveyed with it a kind of indefinite guardianship, and right of interference, which frequently ended in reversing the conditions of the ecclesiastical sovereign and its vassal. But during times of feudal anarchy, there was perhaps no other means to secure the rich abbeys from absolute spoliation; and the free cities in their early stage sometimes adopted the same policy. Among other advocacies, Albert obtained that of some convents who had estates in the vallies of Schwitz and Unterwald. These sequestered regions in the heart of the Alps had been for ages the habitation of a pastoral race, so happily forgotten or so inaccessible in their fastnesses, as to have acquired a virtual independence, regulating their own affairs in their general assembly with a perfect equality, though they acknowledged the sovereignty of the empire.† The people of Schwitz had made Rodolph their advocate. They distrusted Albert, whose succession to his father's inheritance spread alarm through Helvetia.

Albert of
Austria.

The Swiss.

* Planta's History of the Helvetic Confederacy. vol. i. chaps. 2—5.

† Id. c. 4.

CHAP. V. It soon appeared that their suspicions were well founded. Besides the local rights which his ecclesiastical advocacies gave him over part of the forest cantons, he pretended, after his election to the empire, to send imperial bailiffs into their vallies, as administrators of criminal justice. Their oppression of a people unused to controul, whom it was plainly the design of Albert to reduce into servitude, excited those generous emotions of resentment, which a brave and simple race have seldom the discretion to repress.

Their Insurrection.

Three men, Stauffacher of Schwitz, Furst of Uri, Melchthal of Underwald, each with ten chosen associates, met by night in a sequestered field, and swore to assert the common cause of their liberties, without bloodshed or injury to the rights of others. Their success was answerable to the justice of their undertaking; the three cantons unanimously took up arms, and expelled their oppressors without a contest. Albert's assassination by his nephew, which followed soon afterwards, fortunately gave them leisure to consolidate their union.* He was succeeded in the empire by Henry VII. jealous of the Austrian family, and not at all displeased at proceedings which had been accompanied with so little violence or disrespect for the empire. But Leopold, duke of Austria, resolved to humble the peasants who had rebelled against his father, led a considerable force into their country. The Swiss, commending themselves to heaven, and determined rather to perish than undergo that yoke a second time, though ignorant of regular discipline, and unprovided with defensive armour, utterly discomfited the assailants at Morgarten.*

Battle of Morgarten.

1315 This great victory, the Marathon of Switzerland, confirmed the independence of the three original cantons. After some years, Lucerne, contiguous in situation and alike in interests, was incorporated into their confederacy. It was far more materially enlarged about the middle of the fourteenth century, by the accession of

Formation of Swiss Confederacy.

* Planta, c. 6.

† Id. c. 7.

Zuric, Glaris, Zug and Berne, all which took place within two years. The first and last of these cities had already been engaged in frequent wars with the Helvetian nobility, and their internal polity was altogether republican.* They acquired, not independence, which they already enjoyed, but additional security by this union with the Swiss, properly so called, who in deference to their power and reputation ceded to them the first rank in the league. The eight already enumerated are called the ancient cantons, and continued till the late reformation of the Helvetic system, to possess several distinctive privileges, and even rights of sovereignty over subject territories, in which the five cantons of Friburg, Soleure, Basle, Schaffausen, and Appenzel, did not participate. From this time the united cantons, but especially those of Berne and Zuric, began to extend their territories at the expense of the rural nobility. The same contest between these parties, with the same termination, which we know generally to have taken place in Lombardy during the eleventh and twelfth centuries, may be traced with more minuteness in the annals of Swisserland.† Like the Lombards too, the Helvetic cities acted with policy and moderation towards the nobles whom they overcame, admitting them to the franchises of their community, as co-burghers, (a privilege which virtually implied a defensive alliance against any assailant,) and uniformly respecting the legal rights of property. Many feudal superiorities they obtained from the owners in a more peaceable manner, through purchase or mortgage. Thus the house of Austria, to which the extensive domains of the counts of Kyburg had devolved, abandoning after repeated defeats its hopes of subduing the forest cantons, alienated a great part of its possessions to Zuric and Berne.‡ And the last remnant of their ancient Helvetic territories in Argovia were wrested in 1417 from Frederic count of Tyrol, who imprudently supporting Pope John XXIII. against the council of Constance, had been put to the ban of the empire.

CHAP.
V.GER-
MANY.1351
1352

* cc. 8, 9.

† c. 10.

‡ c. 11.

CHAP. V. These conquests Berne could not be induced to restore, and thus completed the independence of the confederate republics.* The other free cities, though not yet incorporated, and the few remaining nobles, whether lay or spiritual, of whom the abbot of St. Gall was the principal, entered into separate leagues with different cantons. Switzerland became therefore, in the first part of the fifteenth century, a free country, acknowledged as such by neighbouring states, and subject to no external controul, though still comprehended within the nominal sovereignty of the empire.

The affairs of Switzerland occupy a very small space in the great chart of European history. But in some respects they are more interesting than the revolutions of mighty kingdoms. No where besides do we find so many titles to our sympathy, or the union of so much virtue with so complete success. In the Italian republics, a more splendid temple may seem to have been erected to liberty; but, as we approach, the serpents of faction hiss around her altar, and the form of tyranny flits among the distant shadows behind the shrine. Switzerland, not absolutely blameless, (for what republic has been so?) but comparatively exempt from turbulence, usurpation, and injustice, has well deserved to employ the native pen of an historian, accounted the most eloquent of the last age.† Other nations displayed an insuperable resolution in the defence of walled towns; but the steadiness of the Swiss in the field of battle was without a parallel, unless we recall the memory of Lacedæmon. It was even established as a law, that whoever returned from battle

* Vol. ii. c. 1.

† I am unable to judge of Muller's history in the original language; but, presuming the first volume of Mr. Planta's History of the Helvetic Confederacy to be a free translation or abridgement of it, I can well conceive that it deserves the encomiums of Madame de Staël, and other foreign critics. It is very rare to meet with such picturesque and lively delineation in a modern historian of distant times. But I must observe, that if the authentic chronicles of Switzerland

have enabled Muller to embellish his narration with so much circumstantial detail, he has been remarkably fortunate in his authorities. No man could write the annals of England or France in the fourteenth century with such particularity, if he was scrupulous not to fill up the meagre sketch of chroniclers from the stores of his invention. The striking scenery of Switzerland, and Muller's exact acquaintance with it, have given him another advantage as a *painter* of history.

after a defeat, should forfeit his life by the hands of the executioner. CHAP. V. Sixteen hundred men who had been sent to oppose a predatory invasion of the French in 1444, though they might have retreated without loss, determined rather to perish on the spot, and fell amidst a far greater heap of the hostile slain.* At the famous battle of Sempach in 1385, the last which Austria presumed to try against the forest cantons, the enemy's knights, dismounted from their horses, presented an impregnable barrier of lances, which disconcerted the Swiss; till Winkelried, a gentleman of Underwald, commending his wife and children to his countrymen, threw himself upon the opposite ranks, and collecting as many lances as he could grasp, forced a passage for his followers by burying them in his bosom.†

GERMANY.

The burghers and peasants of Swisserland, ill provided with cavalry, and better able to dispense with it than the natives of campaign countries, may be deemed the principal restorers of the Greek and Roman tactics, which placed the strength of armies in a steady mass of infantry. Besides their splendid victories over the dukes of Austria, and their own neighbouring nobility, they had repulsed, in the year 1375, one of those predatory bodies of troops, the scourge of Europe in that age, and to whose licentiousness kingdoms and free states yielded alike a passive submission. They gave the Dauphin, afterwards Louis XI., who entered their country in 1444 with a similar body of ruffians, called Armagnacs, the disbanded mercenaries of the English war, sufficient reason to desist from his invasion and to respect their valour. That able prince formed indeed so high a notion of the Swiss, that he sedulously cultivated their alliance during the rest of his life. He was made abundantly sensible of the wisdom of this policy, when he saw his greatest enemy, the duke of Burgundy, routed at Granson and Morat, and his affairs irrecoverably ruined by these hardy republicans. The ensuing age is the most conspicuous,

Excellence
of the Swiss
troops.

* Vol. ii. c. 2.

† Vol. i. c. 10.

CHAP. though not the most essentially glorious, in the history of Swis-
 V. serland. Courted for the excellence of their troops by the rival
 GER- sovereigns of Europe, and themselves too sensible both to ambitious
 MANY. schemes of dominion and to the thirst of money, the united cantons
 came to play a very prominent part in the wars of Lombardy, with
 great military renown, but not without some impeachment of that
 sterling probity which had distinguished their earlier efforts for inde-
 pendence. These events however do not fall within my limits; but
 the last year of the fifteenth century is a leading epoch, with which
 I shall conclude this sketch. Though the house of Austria had
 ceased to menace the liberties of Helvetia, and had even been for
 many years its ally, the emperor Maximilian, aware of the important
 service he might derive from the cantons in his projects upon Italy,
 as well as of the disadvantage he sustained by their partiality to
 French interests, endeavoured to revive the unextinguished supre-
 macy of the empire. That supremacy had just been restored in
 Germany by the establishment of the Imperial Chamber, and of a
 regular pecuniary contribution for its support as well as for other
 purposes, in the diet of Worms. The Helvetic cantons were sum-
 moned to yield obedience to these imperial laws; an innovation, for
 such the revival of obsolete prerogatives must be considered, ex-
 ceedingly hostile to their republican independence, and involving
 consequences not less material in their eyes, the abandonment
 of a line of policy which tended to enrich, if not to aggrandize
 them. Their refusal to comply brought on a war, wherein the Ty-
 rolese, subjects of Maximilian, and the Swabian league, a confede-
 racy of cities in that province lately formed under the emperor's
 auspices, were principally engaged against the Swiss. But the suc-
 cess of the latter was decisive, and after a terrible devastation of the
 frontiers of Germany, peace was concluded upon terms very ho-
 nourable for Swisserland. The cantons were declared free from the
 jurisdiction of the Imperial Chamber, and from all contributions im-
 posed by the diet. Their right to enter into foreign alliances, even
 hostile to the empire, if it was not expressly recognized, continued

Ratification
 of their in-
 dependence
 in 1500.

unimpaired in practice; nor am I aware that they were at any time afterwards supposed to incur the crime of rebellion by such proceedings. Though perhaps, in the strictest letter of public law, the Swiss cantons were not absolutely released from their subjection to the empire until the treaty of Westphalia, their real sovereignty must be dated by an historian from the year when every prerogative which a government can exercise was finally abandoned.*

CHAP.
V.
GER-
MANY.

* Planta, vol. ii. c. 4.

The difficulty which occurs to us in endeavouring to fix a natural commencement of modern history even in the Western countries of Europe is much enhanced when we direct our attention to the Eastern empire. In tracing the progress of the Byzantine empire, we next lose sight of antiquity; the Greek language, the Roman name, the titles, the laws, all the shadowy circumstance of ancient greatness attend us throughout the progress from the first to the last of the Constantines; and it is only when we observe the external condition and relations of their empire, that we perceive ourselves to be embarked in a new sea, and are compelled to deduce, from points of history to the history of other nations, a line of separation, which the domestic revolutions of Constantinople would not satisfactorily afford. The appearance of Mahomet, and the conquests of his disciples, present an epoch in the history of Asia, still more important and more definite than the subversion of the Roman empire in Europe; and hence the boundary line between the ancient and modern divisions of Byzantine history will intersect the reign of Mahomet. That period may be said to have stood on the

CHAPTER VI.

HISTORY OF THE GREEKS AND SARACENS.

Rise of Mohammedism—Causes of its Success—Progress of Saracen Arms—Greek Empire—Decline of the Khalifs—The Greeks recover part of their Losses—The Turks—The Crusades—Capture of Constantinople by the Latins—Its Recovery by the Greeks—The Moguls—The Ottomans—Danger at Constantinople—Timur—Capture of Constantinople by Mahomet II.—Alarm of Europe.

THE difficulty which occurs to us in endeavouring to fix a natural commencement of modern history even in the Western countries of Europe is much enhanced when we direct our attention to the Eastern empire. In tracing the long series of the Byzantine annals, we never lose sight of antiquity: the Greek language, the Roman name, the titles, the laws, all the shadowy circumstance of ancient greatness, attend us throughout the progress from the first to the last of the Constantines; and it is only when we observe the external condition and relations of their empire, that we perceive ourselves to be embarked in a new sea, and are compelled to deduce, from points of bearing to the history of other nations, a line of separation, which the domestic revolutions of Constantinople would not satisfactorily afford. The appearance of Mohammed, and the conquests of his disciples, present an epoch in the history of Asia, still more important and more definite than the subversion of the Roman empire in Europe; and hence the boundary line between the ancient and modern divisions of Byzantine history will intersect the reign of Heraclius. That prince may be said to have stood on the

CHAP.
VI.
GREEKS
AND SA-
RACENS.

CHAP.

VI.

GREEKS
AND SA-
RACENS.Appear-
ance of Mo-
hammed.

verge of both hemispheres of time, whose youth was crowned with the last victories over the successors of Artaxerxes, and whose age was clouded by the first calamities of Mohammedan invasion.

Of all the revolutions which have had a permanent influence upon the civil history of mankind, none could so little be anticipated by human prudence as that effected by the religion of Arabia. As the seeds of invisible disease grow up sometimes in silence to maturity, till they manifest themselves hopeless and irresistible, the gradual propagation of a new faith in a barbarous country beyond the limits of the empire was hardly known perhaps, and certainly disregarded, in the court of Constantinople. Arabia, in the age of Mohammed, was divided into many small states, most of which, however, seem to have looked up to that of Mecca, as the capital of their nation, and the chief seat of their religious worship. The capture of that city accordingly, and subjugation of its powerful and numerous aristocracy, readily drew after it the submission of the minor tribes, who transferred to the conqueror the reverence they were used to shew to those he had subdued. If we consider Mohammed only as a military usurper, there is nothing more explicable, or more analogous, especially, to the course of Oriental history, than his success. But as the author of a religious imposture, upon which, though avowedly unattested, and though originally discountenanced by the civil magistrate, he had the boldness to found a scheme of universal dominion, which his followers were half enabled to realize, it is a curious speculation, by what means he could inspire so sincere, so ardent, so energetic, and so permanent a belief.

Causes of
his success.

A full explanation of the causes which contributed to the progress of Mohammedism is not perhaps at present attainable by those most conversant with this department of literature.* But we may

* We are very destitute of satisfactory materials for the history of Mohammed himself. Abulfeda, the most judicious of his biographers, lived in the fourteenth century, when it must have been morally impossible to discriminate the truth amidst the torrent of fabulous tradition. Al Jannabi, whom Gagnier translated, is a mere legend writer;

point out several of leading importance: in the first place, those just and elevated notions of the divine nature, and of moral duties, the gold ore that pervades the dross of the Koran, which were calculated to strike a serious and reflecting people, already perhaps disinclined, by intermixture with their Jewish and Christian fellow citizens, to the superstitions of ancient idolatry; next, the artful incorporation of tenets, usages, and traditions from the various religions that existed in Arabia; and thirdly, the extensive application of the precepts in the Koran, a book confessedly written with much elegance and purity, to all legal transactions, and all the business of life. It may be expected that I should add to these, what is commonly considered as a distinguishing mark of Mohammedanism, its indulgence to voluptuousness. But this appears to be greatly exaggerated. Although the character of its founder may have been tainted by sensuality as well as ferociousness, I do not think that he relied upon inducements of the former kind for the diffusion of his system. We are not to judge of this by rules of Christian purity, or of European practice. If polygamy was a prevailing usage in Arabia, as is not questioned, its permission gave no additional license to the proselytes of Mohammed, who will be found rather to have narrowed the unbounded liberty of Oriental manners in this respect; while his decided condemnation of adultery, and of incestuous connexions, so frequent among barbarous nations, does not argue a very lax and accommodating morality. A devout Mussulman exhibits much more of the Stoical, than the Epicurean character. Nor can any one read the Koran without being sensible that it breathes an austere and scrupulous spirit. And in fact the founder of a new religion or sect is little likely to obtain permanent success by indulging the vices and luxuries of mankind. I should rather be

it would be as rational to quote the *Acta Sanctorum* as his romance. It is therefore difficult to ascertain the real character of the prophet, except as it is deducible from the Koran; and some sceptical Orientalists have

called in question the absolute genuineness even of that. Gibbon has hardly apprized the reader sufficiently of the crumbling foundation upon which his narrative of Mohammed's life and actions depends.

CHAP.

VI.

GREEKS
AND SA-
RACENS.

disposed to reckon the severity of Mohammed's discipline among the causes of its influence. Precepts of ritual observance, being always definite and unequivocal, are less likely to be neglected, after their obligation has been acknowledged, than those of moral virtue. Thus the long fasting, the pilgrimages, the regular prayers and ablutions, the constant almsgiving, the abstinence from stimulating liquors, enjoined by the Koran, created a visible standard of practice among its followers, and preserved a continual recollection of their law.

But the prevalence of Islâm in the life-time of its prophet, and during the first ages of its existence, was chiefly owing to the spirit of martial energy that he infused into it. The religion of Mohammed is as essentially a military system, as the institution of chivalry in the west of Europe. The people of Arabia, a race of strong passions and sanguinary temper, enured to habits of pillage and murder, found in the law of their native prophet, not a license, but a command to desolate the world, and the promise of all that their glowing imaginations could anticipate of Paradise annexed to all in which they most delighted upon earth. It is difficult for us, in the calmness of our closets, to conceive that feverish intensity of excitement to which man may be wrought, when the animal and intellectual energies of his nature converge to a point, and the buoyancy of strength and courage reciprocates the influence of moral sentiment or religious hope. The effect of this union I have formerly remarked in the Crusades; a phenomenon perfectly analogous to the early history of the Saracens. In each, one hardly knows whether most to admire the prodigious exertions of heroism, or to revolt from the ferocious bigotry that attended them. But the Crusades were a temporary effort, not thoroughly congenial to the spirit of Christendom, which, even in the darkest and most superstitious ages, was not susceptible of the solitary and over-ruling fanaticism of the Moslems. They needed no excitement from pontiffs and preachers to atchieve the work to which they were called; the precept was in their law, the principle was in their hearts, the assurance

of success was in their swords. O prophet, exclaimed Ali, when Mohammed, in the first years of his mission, sought among the scanty and hesitating assembly of his friends, a vizir and lieutenant in command, I am the man; whoever rises against thee, I will dash out his teeth, tear out his eyes, break his legs, rip up his belly. O prophet, I will be thy vizir over them.* These words of Mohammed's early and illustrious disciple are, as it were, a text, upon which the commentary expands into the whole Saracenic history. They contain the vital essence of his religion, implicit faith and ferocious energy. Death, slavery, tribute to unbelievers, were the glad tidings of the Arabian prophet. To the idolaters indeed, or those who acknowledged no special revelation, one alternative only was proposed, conversion or the sword. The people of the Book, as they are termed in the Koran, or four sects of Christians, Jews, Magians, and Sabians, were permitted to redeem their adherence to their ancient law by the payment of tribute, and other marks of humiliation and servitude. But the limits which Mohammedan intolerance had prescribed to itself were seldom transgressed, the word pledged to unbelievers was seldom forfeited; and with all their insolence and oppression, the Moslem conquerors were mild and liberal in comparison with those who obeyed the pontiffs of Rome or Constantinople.

At the death of Mohammed in 632, his temporal and religious sovereignty embraced, and was limited by, the Arabian peninsula. The Roman and Persian empires, engaged in tedious and indecisive hostility upon the rivers of Mesopotamia, and the Armenian mountains, were viewed by the ambitious fanatics of his creed as their quarry. In the very first year of Mohammed's immediate successor, Abubeker, each of these mighty empires was invaded. The latter opposed but a short resistance. The crumbling fabric of eastern despotism is never secure against rapid and total subversion; a few victories, a few sieges, carried the Arabian arms from the Tigris to

CHAP.
VI.
GREEKS
AND SARACENS.

First conquests of the Saracens.

* Gibbon, vol. ix. p. 284.

CHAP. VI. the Oxus, and overthrew, with the Sassanian dynasty, the ancient and famous religion they had professed. Seven years of active and unceasing warfare sufficed to subjugate the rich province of Syria, though defended by numerous armies and fortified cities; and the khalif Omar had scarcely returned thanks for the accomplishment of this conquest, when Amrou his lieutenant announced to him the entire reduction of Egypt. After some interval the Saracens won their way along the coast of Africa as far as the pillars of Hercules, and a third province was irretrievably torn from the Greek empire. These western conquests introduced them to fresh enemies, and ushered in more splendid successes; encouraged by the disunion of the Visigoths, and invited by treachery, Musa, the general of a master who sat beyond the opposite extremity of the Mediterranean Sea, passed over into Spain, and within about two years the name of Mohammed was invoked under the Pyreneans.*

State of the
Greek empire.

These conquests, which astonish the careless and superficial, are less perplexing to a calm inquirer than their cessation; the loss of half the Roman empire, than the preservation of the rest. A glance from Medina to Constantinople in the middle of the seventh century would probably have induced an indifferent spectator, if such a being may be imagined, to anticipate by eight hundred years the establishment of a Mohammedan dominion upon the shores of the Hellespont. The fame of Heraclius had withered in the Syrian war; and his successors appeared as incapable to resist, as they were unworthy to govern. Their despotism, unchecked by law, was often punished by successful rebellion; but not a whisper of civil liberty was ever heard, and the vicissitudes of servitude and anarchy consummated the moral degeneracy of the nation. Less ignorant than

* Ockley's History of the Saracens. Cardonne, Révolutions de l'Afrique et de l'Espagne. The former of these works is well known, and justly admired for its simplicity and picturesque details. Scarcely any narrative has ever excelled in beauty the death of Hossein. But these do not tend to render it more deserving of confi-

dence. On the contrary, it may be laid down as a pretty general rule, that *circumstantiality*, which enhances the credibility of a witness, diminishes that of an historian, remote in time or situation. And I observe that Reiske, in his preface to Abulfeda, speaks of Wakidi, from whom Ockley's book is but a translation, as a mere fabulist.

the western barbarians, the Greeks abused their ingenuity in theological controversies, those especially which related to the nature and incarnation of our Saviour; wherein the disputants, as is usual, became more positive and rancorous, as their creed receded from the possibility of human apprehension. Nor were these confined to the clergy, who had not, in the east, obtained the prerogative of guiding the national faith; the sovereigns sided alternately with opposing factions; Heraclius was not too brave, nor Theodora too infamous, for discussions of theology; and the dissenters from an imperial decision were involved in the double proscription of treason and heresy. But the persecutors of their opponents at home pretended to cowardly scrupulousness in the field; nor was the Greek church ashamed to require the lustration of a canonical penance from the soldier, who shed the blood of his enemies in a national war.

But this depraved people were preserved from destruction by the vices of their enemies, still more than by some intrinsic resources which they still possessed. A rapid degeneracy enfeebled the victorious Moslem in their career. That irresistible enthusiasm, that earnest and disinterested zeal of the companions of Mohammed was in a great measure lost, even before the first generation had passed away. In the fruitful vallies of Damascus and Bassora, the Arabs of the desert forgot their abstemious habits. Rich from the tributes of an enslaved people, the Mohammedan sovereigns knew no employment of riches but in sensual luxury, and paid the price of voluptuous indulgence in the relaxation of their strength and energy. Under the reign of Moawiyah, the fifth khalif, an hereditary succession was substituted for the free choice of the faithful, by which the first representatives of the prophet had been elevated to power; and this regulation, necessary as it plainly was, to avert in some degree the dangers of schism and civil war, exposed the kingdom to the certainty of being often governed by feeble tyrants. But no regulation could be more than a temporary preservative against civil war. The dissensions which still separate and render hostile the

CHAP. VI. followers of Mohammed may be traced to the first events that ensued upon his death, to the rejection of his son-in-law Ali by the electors of Medina. Two reigns, those of Abubeker and Omar, passed in external glory and domestic reverence; but the old age of Othman was weak and imprudent, and the conspirators against him established the first among a hundred precedents of rebellion and regicide. Ali was now chosen; but a strong faction disputed his right; and the Saracen empire was for many years distracted with civil war among competitors, who appealed, in reality, to no other decision than that of the sword. The family of Ommyyah succeeded at last in establishing an unresisted, if not an undoubted title. But rebellions were perpetually breaking out in that vast extent of dominion, till one of these revolters acquired by success a better name than rebel, and founded the dynasty of the Abbassides.

750

Khalifs of
Bagdad.

Damascus had been the seat of empire under the Ommyades; it was removed by the succeeding family to their new city of Bagdad. There are not any names in the long line of khalifs, after the companions of Mohammed, more renowned in history than some of the earlier sovereigns who reigned in this capital, Almansor, Haroun Alraschid, and Almamun. Their splendid palaces, their numerous guards, their treasures of gold and silver, the populousness and wealth of their cities, formed a striking contrast to the rudeness and poverty of the western nations in the same age. In their court, learning, which the first Moslem had despised as unwarlike, or rejected as profane, was held in honour.* The khalif Almamun, especially, was distinguished for his patronage of letters; the philosophical writings of Greece were eagerly sought and translated; the stars were numbered, the course of the planets was measured; the Arabians improved upon the science they borrowed, and returned it with abundant interest to Europe in the communication of numeral figures, and the intellectual language of algebra.† Yet the

* The Arabian writers date the origin of their literature (except those works of fiction which had always been popular) from the

reign of Almansor. A. D. 758. Abulpharagius, p. 160. Gibbon, c. 52.

† Several very recent publications contain

merit of the Abbassides has been exaggerated by adulation or gratitude. After all the vague praises of hireling poets, which have sometimes been repeated in Europe, it is very rare to read the history of an eastern sovereign unstained by atrocious crimes. No Christian government, except perhaps that of Constantinople, exhibits such a series of tyrants as the khalifs of Bagdad; if deeds of blood wrought through unbridled passion, or jealous policy, may challenge the name of tyranny. These are ill redeemed by ceremonious devotion, and acts of trifling, perhaps ostentatious, humility; or even by the best attribute of Mohammedan princes, a rigorous justice in chastising the offences of others. Anecdotes of this description give as imperfect a sketch of an oriental sovereign, as monkish chroniclers sometimes draw of one in Europe, who founded monasteries and obeyed the clergy; though it must be owned that the former are in much better taste.

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Though the Abbassides have acquired more celebrity, they never attained the real strength of their predecessors. Under the last of the house of Ommiyah, one command was obeyed almost along the supposed course of the sun, from the banks of the Sihon to the utmost promontory of Portugal. But the revolution which changed the succession of khalifs, produced another not less important. A fugitive of the vanquished family, by name Abdalrahman, arrived in Spain; and the Moslems of that country, not sharing in the prejudices which had stirred up the Persians in favour of the line of Abbas, and conscious that their remote situation intitled them to independence, proclaimed him khalif of Cordova. There could be little hope of reducing so distant a dependency; and the example

Separation
of Spain
and Africa.

interesting details on Saracen literature; Berington's Literary History of the Middle Ages, Mills's History of Mohammedanism, chap. vi. Turner's History of England, vol. i. Harris's Philological Arrangements is perhaps a book better known; and though it has since been much excelled, was one of the first contributions, in our own language, to

this department, in which a great deal yet remains for the oriental scholars of Europe. Casiri's admirable catalogue of Arabic MSS. in the Escorial ought before this to have been followed up by a more accurate examination of their contents than it was possible for him to give. But sound literature and the Escorial!—what jarring ideas!

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 was not unlikely to be imitated. In the reign of Haroun Alraschid, two principalities were formed in Africa; of the Aglabites who reigned over Tunis and Tripoli; and of the Edrissites in the western parts of Barbary. These yielded in about a century to the Fatimites, a more powerful dynasty, who afterwards established an empire in Egypt.*

Decline of
the Khalifs.

The loss, however, of Spain and Africa was the inevitable effect of that immensely extended dominion, which their separation alone would not have enfeebled. But other revolutions awaited it at home. In the history of the Abbassides of Bagdad we read over again the decline of European monarchies, through their various symptoms of ruin; and find alternate analogies to the insults of the barbarians towards imperial Rome in the fifth century, to the personal insignificance of the Merovingian kings, and to the feudal usurpations that dismembered the inheritance of Charlemagne. 1. Beyond the north-eastern frontier of the Saracen empire, dwelt a warlike and powerful nation of the Tartar family, who defended the independence of Turkestan from the sea of Aral to the great central chain of mountains. In the wars which the khalifs or their lieutenants waged against them, many of these Turks were led into captivity, and dispersed over the empire. Their strength and courage distinguished them among a people grown effeminate by luxury; and that jealousy of disaffection among his subjects, so natural to an eastern monarch, might be an additional motive with the khalif Motassem to form bodies of guards out of these prisoners. But his policy was fatally erroneous. More rude, and even more ferocious than the Arabs, they contemned the feebleness of the khalifate, while they grasped at its riches. The son of Motassem, Motawakkel, was murdered in his palace by the barbarians of the north; and his fate revealed the secret of the empire, that the choice of its sovereigns had passed to their slaves. Degradation and death were frequently the lot of suc-

* For these revolutions, which it is not very easy to fix in the memory, consult Car-donne, who has made as much of them as the subject would bear.

ceeding khalifs; but, in the east, the son leaps boldly on the throne which the blood of his father has stained, and the prætorian guards of Bagdad rarely failed to render a fallacious obedience to the nearest heir of the house of Abbas. 2. In about one hundred years after the introduction of the Turkish soldiers, the sovereigns of Bagdad sunk almost into oblivion. Al Radi, who died in 940, was the last of these that officiated in the mosque, that commanded the forces in person, that addressed the people from the pulpit, that enjoyed the pomp and splendour of royalty.* But, he was the first who appointed, instead of a vizir, a new officer, a mayor, as it were, of the palace, with the title of Emir al omra, commander of commanders, to whom he delegated by compulsion the functions of his office. This title was usually seized by active and martial spirits; it was sometimes hereditary, and in effect irrevocable by the khalifs, whose names hardly appear after this time in oriental annals. 3. During these revolutions of the palace, every province successively shook off its allegiance; new principalities were formed in Syria and Mesopotamia, as well as in Khorasan and Persia, till the dominion of the Commander of the Faithful was literally confined to the city of Bagdad and its adjacent territory. For a time, some of these princes, who had been appointed as governors by the khalifs, professed to respect his supremacy, by naming him in the public prayers, and upon the coin; but these tokens of dependence were gradually obliterated.†

Such is the outline of Saracenic history for three centuries after Mohammed; one age of glorious conquest; a second of stationary, but rather precarious greatness; a third of rapid decline. The Greek empire meanwhile survived, and almost recovered from the shock it had sustained. Besides the decline of its enemies, several circumstances may be enumerated, tending to its preservation. The mari-

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RACENS.

Revival of
the Greek
empire.

* Abulfeda, p. 261. Gibbon, c. 52. Modern Univ. Hist. vol. ii. Al Radi's command of the army is only mentioned by the last.

discussed in the 52d chapter of Gibbon, which is, in itself, a complete philosophical dissertation upon this part of history.

† The decline of the Saracens is fully

CHAP. VI. time province of Cilicia had been over-run by the Mohammedans ;
 GREEKS AND SARACENS. but between this and the lesser Asia Mount Taurus raises its massy
 buckler, spreading, as a natural bulwark, from the sea-coast of Pam-
 phylia to the hilly district of Isauria, whence it extends in an easterly
 direction, separating the Cappadocian and Cilician plains, and after
 throwing off considerable ridges to the north and south, connects
 itself with other chains of mountains that penetrate far into the Asiatic
 continent. Beyond this barrier the Saracens formed no durable set-
 tlement, though the armies of Alraschid wasted the country as far as
 the Hellespont, and the city of Amorium in Phrygia was razed to the
 ground by Al Motassem. The position of Constantinople, chosen
 with a sagacity to which the course of events almost gave the appear-
 ance of prescience, secured her from any immediate danger on the
 side of Asia, and rendered her as little accessible to an enemy, as any
 city which valour and patriotism did not protect. Yet in the days
 668 of Arabian energy, she was twice attacked by great naval armaments ;
 the first siege, or rather blockade, continued for seven years ; the
 716 second, though shorter, was more terrible, and her walls, as well as
 her port, were actually invested by the combined forces of the khalif
 Waled, under his brother Moslema.* The final discomfiture of these
 assailants shewed the resisting force of the empire, or rather of its
 capital ; but perhaps the abandonment of such maritime enterprizes
 by the Saracens may be in some measure ascribed to the removal of
 their metropolis from Damascus to Bagdad. But the Greeks in
 their turn determined to dispute the command of the sea ; by pos-
 sessing the secret of an inextinguishable fire, they fought on superior
 terms ; their wealth, perhaps their skill, enabled them to employ
 larger and better appointed vessels ; and they ultimately expelled
 their enemies from the islands of Crete and Cyprus. By land, they
 were less desirous of encountering the Moslems. The science of
 tactics is studied by the pusillanimous, like that of medicine by the
 sick ; and the Byzantine emperors, Leo and Constantine, have left

* Gibbon, c. 52.

written treatises on the art of avoiding defeat, of protracting contest, of resisting attack.* But this timid policy, and even the purchase of armistices from the Saracens, were not ill calculated for the state of both nations ; while Constantinople temporized, Bagdad shook to her foundations, and the heirs of the Roman name might boast the immortality of their own empire, when they contemplated the dissolution of that which had so rapidly sprung up and perished. Amidst all the crimes and revolutions of the Byzantine government, and its history is but a series of crimes and revolutions, it was never dismembered by intestine war ; a sedition in the army, a tumult in the theatre, a conspiracy in the palace, precipitated a monarch from the throne ; but the allegiance of Constantinople was instantly transferred to his successor, and the provinces implicitly obeyed the voice of the capital. The custom too of partition, so baneful to the Latin kingdoms, and which was not altogether unknown to the Saracens, never prevailed in the Greek empire. It stood in the middle of the tenth century, as vicious indeed and cowardly, but more wealthy, more enlightened, and far more secure from its enemies, than under the first successors of Heraclius. For about one hundred years preceding there had been only partial wars with the Mohammedan potentates ; and in these the emperors seem gradually to have gained the advantage, and to have become more frequently the aggressors. But the increasing distractions of the east encouraged two brave usurpers, Nicephorus Phocas and John Zimisces, to attempt the actual recovery of the lost provinces. They carried the Roman arms (one may use the term with less reluctance than usual) over Syria ; Antioch and Aleppo were taken by storm, Damascus submitted ; even the cities of Mesopotamia, beyond the ancient boundary of the Euphrates, were added to the trophies of Zimisces, who unwillingly spared the capital of the khalifate. From such distant conquests it

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* Gibbon, c. 53. Constantine Porphyrogenitus, in his advice to his son as to the administration of the empire, betrays a mind not ashamed to confess weakness and cow-

ardice, and pleasing itself in petty arts to elude the rapacity, or divide the power of its enemies.

CHAP. VI. was expedient, and indeed necessary, to withdraw; but Cilicia and Antioch were permanently restored to the empire. At the close of the tenth century, the emperors of Constantinople possessed the best and greatest portion of the modern kingdom of Naples, a part of Sicily, the whole European dominions of the Ottomans, the province of Anatolia or Asia Minor, with some part of Syria and Armenia.*

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RACENS.

The Turks.

These successes of the Greek empire were certainly much rather due to the weakness of its enemies, than to any revival of courage and vigour; yet they would probably have been more durable, if the contest had been only with the khalifate, or the kingdoms derived from it. But a new actor was to appear on the stage of Asiatic tragedy. The same Turkish nation, the slaves and captives from which had become arbiters of the sceptre of Bagdad, passed their original limits of the Iaxartes or Sihon. The sultans of Gazna, a dynasty whose splendid conquests were of very short duration, had deemed it politic to divide the strength of these formidable allies, by inviting a part of them into Khorasan. They covered that fertile province with their pastoral tents, and beckoned their compatriots to share the riches of the south. The Gaznevites fell the earliest victims; but Persia, violated in turn by every conqueror, was a tempting and unresisting prey. Togrol Bek, the founder of the Seljukian dynasty of Turks, overthrew the family of Bowides, who had long reigned at Ispahan, respected the pageant of Moham-
medan sovereignty in the khalif of Bagdad, embraced with all his tribes the religion of the vanquished, and commenced the attack upon Christendom by an irruption into Armenia. His nephew and
successor Alp Arslan, defeated and took prisoner the emperor Romanus Diogenes; and the conquest of Asia Minor was almost consummated by princes of the same family, the Seljukians of Rûm,† who were permitted, by Malek Shah, the third sultan of the Turks,

Their con-
quests.

1038

1071

* Gibbon, cc. 52 and 53. The latter of these chapters contains as luminous a sketch of the condition of Greece, as the former does of Saracenic history. In each, the

facts are not grouped historically according to the order of time, but philosophically, according to their relations.

† Rûm, i. e. country of the Romans.

to form an independent kingdom. Through their own exertions, and the selfish impolicy of rival competitors for the throne of Constantinople, who bartered the strength of the empire for assistance, the Turks became masters of the Asiatic cities and fortified passes; nor did there seem any obstacle to their invasion of Europe.*

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In this state of jeopardy, the Greek empire looked for aid to the nations of the west, and received it in fuller measure than was expected, or perhaps desired. The deliverance of Constantinople was indeed a very secondary object with the crusaders. But it was necessarily included in their scheme of operations, which, though they all tended to the recovery of Jerusalem, must commence with the first enemies that lay on their line of march. The Turks were entirely defeated; their capital of Nice restored to the empire. As the Franks passed onward, the emperor Alexius Comnenus trod on their footsteps, and secured to himself the fruits for which their enthusiasm disdained to wait. He regained possession of the strong places on the Ægean shores, of the defiles of Bithynia, and of the entire coast of Asia Minor, both on the Euxine and Mediterranean seas, which the Turkish armies, composed of cavalry and unused to regular warfare, could not recover.† So much must undoubtedly be ascribed to the first crusade. But I think that the general effect of these expeditions has been over-rated by those who consider them as having permanently retarded the progress of the Turkish power. The Christians in Palestine and Syria were hardly in contact with the Seljukian kingdom of Rûm, the only enemies of the empire; and it is not easy to perceive, that their small and feeble principalities, engaged commonly in defending themselves against the Mohammedan princes of Mesopotamia, or the Fatimite khalifs of Egypt, could obstruct the arms of a sovereign of Iconium upon the Mæander or the Halys. Other causes are adequate to explain the equipoise in

The first
crusade.

Progress of
the Greeks.

* Gibbon, c. 57. De Guignes, Hist. des Huns, t. ii. l. 2.

† It does not seem perfectly clear, whether the sea-coast, north and south, was re-

annexed to the empire during the reign of Alexius, or of his gallant son, John Comnenus. But the doubt is hardly worth noticing.

CHAP. VI. which the balance of dominion in Anatolia was kept during the twelfth century; the valour and activity of the two Comneni, John and Manuel, especially the former; and the frequent partitions and internal feuds, through which the Seljukians of Iconium, like all other oriental governments, became incapable of foreign aggression.

Capture of
Constanti-
nople by the
Latins.

But whatever obligation might be due to the first crusaders from the eastern empire was cancelled by their descendants one hundred years afterwards, when the fourth in number of those expeditions was turned to the subjugation of Constantinople itself. One of those domestic revolutions, which occur perpetually in Byzantine history, had placed an usurper on the imperial throne. The lawful monarch was condemned to blindness and a prison; but the heir escaped to recount his misfortunes to the fleet and army of crusaders, assembled in the Dalmatian port of Zara. This armament had been collected for the usual purposes, and through the usual motives, temporal and spiritual, of a crusade; the military force chiefly consisted of French nobles; the naval was supplied by the republic of Venice, whose doge commanded personally in the expedition. It was not apparently consistent with the primary object of retrieving the Christian affairs in Palestine, to interfere in the government of a Christian empire; but the temptation of punishing a faithless people, and the hope of assistance in their subsequent operations prevailed. They turned their prows up the Archipelago; and notwithstanding the vast population, and defensible strength of Constantinople, compelled the usurper to fly, and the citizens to surrender. But animosities springing from religious schism and national jealousy were not likely to be allayed by such remedies; the Greeks, wounded in their pride and bigotry, regarded the legitimate emperor as a creature of their enemies, ready to sacrifice their church, a stipulated condition of his restoration, to that of Rome. In a few months a new sedition and conspiracy raised another usurper in defiance of the crusaders' army encamped without the walls. The siege instantly re-commenced; and after three months the city of Constantinople was taken by storm. The tale of pillage and murder is always uniform;

but the calamities of ancient capitals, like those of the great, impress CHAP. VI. us more forcibly. Even now we sympathize with the virgin majesty of Constantinople, decked with the accumulated wealth of ages, and resplendent with the monuments of Roman empire and of Grecian art. Her populousness is estimated beyond credibility; ten, twenty, thirty fold that of London or Paris; certainly far beyond the united capitals of all European kingdoms in that age.* Her magnificence was more excelling than her numbers; for the thatched roofs, the mud walls, the narrow streets, the pitiful buildings of those cities, she had marble and gilded palaces, churches and monasteries, the works of skillful architects in nine centuries, gradually sliding from the severity of ancient taste, into the more various and brilliant combinations of eastern fancy.† In the libraries of Constantinople were collected the remains of Grecian learning; her forum and hippodrome were decorated with those of Grecian sculpture; but neither would be spared by undistinguishing rapine; nor were the chiefs of the crusaders more able to appreciate the loss than their soldiery. Four horses, that breathe in the brass of Lysippus, were removed from Constantinople to the square of St. Mark at Venice; destined again to become the trophies of war, and to follow the alternate revolutions of conquest. But we learn from a contemporary Greek to deplore the fate of many other pieces of sculpture, which were destroyed in wantonness, or even coined into brass money.‡

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The lawful emperor and his son had perished in the rebellion that

Partition of
the empire.

* Ville Hardouin reckons the inhabitants of Constantinople at quatre cens mil hommes ou plus, by which Gibbon understands him to mean men of a military age. Le Beau allows a million for the whole population. Gibbon, vol. xi. p. 213. We should probably rate London, in 1204, too high at 40,000 souls. Paris had been enlarged by Philip Augustus, and stood on more ground than London. Delamare sur la Police, t. i. p. 76.

† O quanta civitas, exclaims Fulk of Chartres a hundred years before, nobilis et

decora! quot monasteria, quotque palatia sunt in eâ, opere mero fabrefacta! quot etiam in plateis vel in vicis opera ad spectandum mirabilia! Tædium est quidem magnum recitare, quanta sit ibi opulentia bonorum omnium, auri et argenti, palliorum multiformium, sacrarumque reliquiarum. Omni etiam tempore, navigio frequenti cuncta hominum necessaria illuc afferuntur. Du Chesne, Script. Rerum Gallicarum, t. iv. p. 822.

‡ Gibbon, c. 60.

CHAP.
VI.GREEKS
AND SA-
RACENS.The Greeks
recover
Constanti-
nople.

1261

Invasions of
Asia by the
Karismians

gave occasion to this catastrophe; and there remained no right to interfere with that of conquest. But the Latins were a promiscuous multitude, and what their independent valour had earned was not to be transferred to a single master. Though the name of emperor seemed necessary for the government of Constantinople, the unity of despotic power was very foreign to the principles and the interests of the crusaders. Their selfish schemes of aggrandizement tore in pieces the Greek empire. One fourth only was allotted to the emperor, three eighths were the share of the republic of Venice, and the remainder was divided among the chiefs. Baldwin, count of Flanders, obtained the imperial title, with the feudal sovereignty over the minor principalities. A monarchy thus dismembered had little prospect of honour or durability. The Latin emperors of Constantinople were more contemptible and unfortunate, not so much from personal character as political weakness, than their predecessors; their vassals rebelled against sovereigns not more powerful than themselves; the Bulgarians, a nation who, after being long formidable, had been subdued by the imperial arms, and only recovered independence on the eve of the Latin conquest, insulted their capital; the Greeks viewed them with silent hatred, and hailed the dawning deliverance from the Asiatic coast. On that side of the Bosphorus, the Latin usurpation was scarcely for a moment acknowledged; Nice became the seat of a Greek dynasty, who reigned with honour as far as the Mæander; and crossing into Europe, after having established their dominion throughout Romania and other provinces, expelled the last Latin emperors from Constantinople in less than sixty years from its capture.

During the reign of these Greeks at Nice, they had fortunately little to dread on the side of their former enemies, and were generally on terms of friendship with the Seljukians of Iconium. That monarchy indeed had sufficient objects of apprehension for itself. Their own example in changing the upland plains of Tartary for the cultivated vallies of the south, was imitated in the thirteenth century by two successive hordes of northern barbarians. The

Karismians, whose tents had been pitched on the lower Oxus and Caspian Sea, availed themselves of the decline of the Turkish power to establish their dominion in Persia, and menaced, though they did not overthrow, the kingdom of Iconium. A more tremendous storm ensued in the irruption of Moguls under the sons of Zingis Khan. From the farthest regions of Chinese Tartary, issued a race more fierce and destitute of civilization than those who had preceded, whose numbers were told by hundreds of thousands, and whose only test of victory was devastation. All Asia, from the sea of China to the Euxine, wasted beneath the locusts of the north. They annihilated the phantom of authority which still lingered with the name of khalif at Bagdad. They reduced into dependence and finally subverted the Seljukian dynasty of Persia, Syria, and Iconium. The Turks of the latter kingdom betook themselves to the mountainous country, where they formed several petty principalities, which subsisted by incursions into the territory of the Moguls or Greeks. The chief of one of these, named Othman, at the end of the thirteenth century, penetrated into the province of Bithynia, from which his posterity were never to withdraw.*

CHAP.
VI.GREEKS
AND SA-
RACENS.and Mo-
guls.

1218

1272

1299

The empire of Constantinople had never recovered the blow it received at the hands of the Latins. Most of the islands in the Archipelago, and the provinces of proper Greece from Thessaly southward, were still possessed by those invaders. The wealth and naval power of the empire had passed into the hands of the maritime republics; Venice, Genoa, Pisa and Barcelona were enriched by a commerce which they carried on as independent states within the precincts of Constantinople, scarcely deigning to solicit the permission or recognize the supremacy of its master. In a great battle fought under the walls of the city between the Venetian and Genoese fleets, the weight of the Roman empire, in Gibbon's expression, was scarcely felt in the balance of these opulent and powerful republics. Eight gallies were the contribution of the emperor Cantacuzene to

Declining
state of the
Greek em-
pire.

1352

* De Guignes, Hist. des Huns, t. iii. l. 15. Gibbon, c. 64.

CHAP.

VI.

GREEKS
AND SA-
RACENS.The Otto-
mans.

1341

1396

The Tartars
or Moguls
of Timur.

his Venetian allies ; and upon their defeat he submitted to the ignominy of excluding them for ever from trading in his dominions. Meantime the remains of the empire in Asia were seized by the independent Turkish dynasties, of which the most illustrious, that of the Ottomans, occupied the province of Bithynia. Invited by a Byzantine faction into Europe, about the middle of the fourteenth century, they fixed themselves in the neighbourhood of the capital, and in the thirty years reign of Amurath I., subdued, with little resistance, the province of Romania, and the small Christian kingdoms that had been formed on the lower Danube. Bajazet, the successor of Amurath, reduced the independent emirs of Anatolia to subjection, and after long threatening Constantinople, invested it by sea and land. The Greeks called loudly upon their brethren of the west for aid against the common enemy of Christendom ; but the flower of French chivalry had been slain or taken in the battle of Nicopolis in Bulgaria,* where the king of Hungary, notwithstanding the heroism of these volunteers, was entirely defeated by Bajazet. The emperor Manuel left his capital with a faint hope of exciting the courts of Europe to some decided efforts, by personal representations of the danger ; and, during his absence, Constantinople was saved, not by a friend indeed, but by a power more formidable to her enemies than to herself.

The loose masses of mankind, that without laws, agriculture, or fixed dwellings, overspread the vast central regions of Asia, have, at various times, been impelled by necessity of subsistence, or through the casual appearance of a commanding genius, upon the domain of culture and civilization. Two principal roads connect the nations

* The Hungarians fled in this battle, and deserted their allies, according to the *Mémoires de Boucicaut*, c. 25. But Froissart, who seems a fairer authority, imputes the defeat to the rashness of the French. Part iv. ch. 79. The count de Nevers, (Jean Sans Peur, afterwards duke of Burgundy,) who commanded the French, was made prisoner, with others of the royal blood, and

ransomed at a very high price. Many of eminent birth and merit were put to death ; a fate from which Boucicaut was saved by the interference of the count de Nevers, who might better himself have perished with honour on that occasion, than survived to plunge his country into civil war, and his name into infamy.

of Tartary with those of the west and south; the one into Europe along the sea of Azoph, and northern coast of the Euxine: the other across the interval between the Bukharian mountains and the Caspian into Persia. Four times at least within the period of authentic history, the Scythian tribes have taken the former course, and poured themselves into Europe, but each wave was less effectual than the preceding. The first of these was in the fourth and fifth centuries, for we may range those rapidly successive migrations of the Goths and Huns together, when the Roman empire fell to the ground, and the only boundary of barbarian conquest was the Atlantic ocean upon the shores of Portugal. The second wave came on with the Hungarians in the tenth century, whose ravages extended as far as the southern provinces of France. A third attack was sustained from the Moguls under the children of Zingis, at the same period as that which overwhelmed Persia. The Russian monarchy was destroyed in this invasion, and for two hundred years that great country lay prostrate under the yoke of the Tartars. As they advanced, Poland and Hungary gave little opposition, and the farthest nations of Europe were appalled by the tempest. But Germany was no longer as she had been in the anarchy of the tenth century; the Moguls were unused to resistance, and still less inclined to regular warfare; they retired before the emperor Frederic II., and the utmost points of their western invasion were the cities of Lignitz in Silesia, and Neustadt in Austria. In the fourth and last aggression of the Tartars, their progress in Europe is hardly perceptible; the Moguls of Timur's army could only boast the destruction of Azoph, and the pillage of some Russian provinces. Timur, the sovereign of these Moguls, and founder of their second dynasty, which has been more permanent and celebrated than that of Zingis, had been the prince of a small tribe, in Transoxiana, between the Gihon and Sirr, the doubtful frontier of settled and pastoral nations. His own energy and the weakness of his neighbours are sufficient to explain the revolution he effected. Like former conquerors, Togrol Bek and Zingis, he chose the road through Persia; and meeting little resistance

CHAP.
VI.GREEKS
AND SA-
RACENS.

1245

CHAP. VI. from the disordered governments of Asia, extended his empire on one side to the Syrian coast, while by successes still more renowned, though not belonging to this place, it reached on the other to the heart of Hindostan. In his old age, the restlessness of ambition impelled him against the Turks of Anatolia. Bajazet hastened from the siege of Constantinople to a more perilous contest: his defeat and captivity, in the plains of Angora, clouded for a time the Ottoman crescent, and preserved the wreck of the Greek empire for fifty years longer.

GREEKS
AND SA-
RACENS.

Defeat of
Bajazet.

1402

Danger of
Constanti-
nople.

The Moguls did not improve their victory; in the western parts of Asia, as in Hindostan, Timur was but a barbarian destroyer, though at Samarcand a sovereign and a legislator. He gave up Anatolia to the sons of Bajazet; but the unity of their power was broken; and the Ottoman kingdom, like those which had preceded, experienced the evils of partition and mutual animosity. For about twenty years an opportunity was given to the Greeks of recovering part of their losses; but they were incapable of making the best use of this advantage, and though they regained possession of part of Romania, did not extirpate a strong Turkish colony that held the city of Gallipoli in the Chersonesus. When Amurath II., therefore, re-united under his vigorous sceptre the Ottoman monarchy, Constantinople was exposed to another siege and to fresh losses. Her walls, however, repelled the enemy, and during the reign of Amurath, she had leisure to repeat those signals of distress, which the princes of Christendom refused to observe. The situation of Europe was, indeed, sufficiently inauspicious: France, the original country of the crusades and of chivalry, was involved in foreign and domestic war; while a schism, apparently interminable, rent the bosom of the Latin church, and impaired the efficiency of the only power that could unite and animate its disciples in a religious war. Even when the Roman pontiffs were best disposed to rescue Constantinople from destruction, it was rather as masters than as allies that they would interfere; their ungenerous bigotry, or rather pride, dictated the submission of her church, and the renunciation of her favourite

1421

article of distinctive faith. The Greeks yielded with reluctance and insincerity in the council of Florence; but soon rescinded their treaty of union. Eugenius IV. procured a short diversion on the side of Hungary; but after the unfortunate battle of Warna, the Hungarians were abundantly employed in self-defence.

CHAP.
VI.

GREEKS
AND SA-
RACENS.

1444

The two monarchies, which have successively held their seat in the city of Constantine, may be contrasted in the circumstances of their decline. In the present day, we anticipate, with an assurance that none can deem extravagant, the approaching subversion of the Ottoman power; but the signs of internal weakness have not yet been confirmed by the dismemberment of provinces; and the arch of dominion, that long since has seemed nodding to its fall, and totters at every blast of the north, still rests upon the land-marks of ancient conquest, and spans the ample regions from Bagdad to Belgrade. Far different were the events that preceded the dissolution of the Greek empire. Every province was in turn subdued; every city opened her gates to the conqueror; the limbs were lopped off one by one; but the pulse still beat at the heart, and the majesty of the Roman name was ultimately confined to the walls of Constantinople. Before Mahomet II. planted his cannon against them, he had completed every smaller conquest, and deprived the expiring empire of every hope of succour or delay. It was necessary that Constantinople should fall; but the magnanimous resignation of her emperor bestows an honour upon her fall, which her prosperity seldom earned. The long deferred, but inevitable moment arrived; and the last of the Cæsars, (I will not say of the Palæologi,) folded round him the imperial mantle, and remembered the name which he represented in the dignity of heroic death. It is thus, that the intellectual principle, when enfeebled by disease or age, is said to rally its energies in the presence of death, and to pour the radiance of unclouded reason around the last struggles of dissolution.

Its fall.

1453

Though the fate of Constantinople had been protracted beyond all reasonable expectation, the actual intelligence operated like that

Alarm excited by it in Europe.

CHAP. VI. of sudden calamity. A sentiment of consternation, perhaps of self-reproach, thrilled to the heart of Christendom. There seemed no longer any thing to divert the Ottoman armies from Hungary; and if Hungary should be subdued, it was evident that both Italy and the German empire were exposed to invasion.* A general union of Christian powers was required to withstand this common enemy. But the popes, who had so often armed them against each other, wasted their spiritual and political counsels in attempting to restore unanimity. War was proclaimed against the Turks at the diet of Frankfort, in 1454; but no efforts were made to carry the menace into execution. No prince could have sat on the imperial throne more unfitted for the emergency than Frederic III.; his mean spirit and narrow capacity exposed him to the contempt of mankind; his avarice and duplicity ensured the hatred of Austria and Hungary. During the papacy of Pius II., whose heart was thoroughly engaged in this legitimate crusade, a more specious attempt was made by
 1459 convening an European congress at Mantua. Almost all the sovereigns attended by their envoys; and it was concluded that 50,000 men at arms should be raised; and a tax levied for three years of one tenth from the revenues of the clergy, one thirtieth from those of the laity, and one twentieth from the capital of the Jews.† Pius engaged to head this armament in person; but when he appeared next year at Ancona, the appointed place of embarkation, the princes had failed in all their promises of men and money; and he found only a headlong crowd of adventurers,

* *Sive vincitur Hungaria, sive coacta jungitur Turcis, neque Italia neque Germania tuta erit, neque satis Rhœnus Gallos securos reddet.* *Æn. Sylv.* p. 678. This is part of a discourse pronounced by Æneas Sylvius before the diet of Frankfort; which, though too declamatory, like most of his writings, is an interesting illustration of the state of Europe, and of the impression produced by that calamity. Spondanus, ad ann. 1454, has given large extracts from this oration.

† Spondanus. Neither Charles VII. nor even Philip of Burgundy, who had made the loudest professions, and pledged himself in a fantastic pageant at his court soon after the capture of Constantinople to undertake this crusade, was sincere in his promises. The former pretended apprehensions of invasion from England, as an excuse for sending no troops; which, considering the situation of England in 1459, was a bold attempt upon the credulity of mankind.

destitute of every necessary, and expecting to be fed and paid at the pope's expense. It was not by such a body that Mahomet could be expelled from Constantinople. If the Christian sovereigns had given a steady and sincere co-operation, the contest would still have been arduous and uncertain. In the early crusades, the superiority of arms, of skill, and even of discipline had been uniformly on the side of Europe. But the present circumstances were far from similar. An institution begun by the first and perfected by the second Amurath had given to the Turkish armies, what their enemies still wanted, military subordination and veteran experience. Aware, as it seems, of the real superiority of Europeans in war, these sultans selected the stoutest youths from their Bulgarian, Servian, or Albanian captives, who were educated in habits of martial discipline, and formed into a regular force with the name of Janizaries. After conquest had put an end to personal captivity, a tax of every fifth male child was raised upon the Christian population for the same purpose. The arm of Europe was thus turned upon herself; and the western nations must have contended with troops of hereditary robustness and intrepidity, whose emulous enthusiasm for the country that had adopted them was controuled by habitual obedience to their commanders.*

CHAP.
VI.GREEKS
AND SA-
RACENS.Institution
of Janiza-
ries.

* In the long declamation of Æneas Sylvius before the diet of Frankfort in 1454, he has the following contrast between the European and Turkish militia; a good specimen of the artifice with which an ingenious orator can disguise the truth, while he seems to be stating it most precisely. Conferamus nunc Turcos et vos invicem, et quid sperandum sit, si cum illis pugnetis, examinemus. Vos nati ad arma, illi tracti. Vos armati, illi inermes; vos gladios versatis, illi cultris utuntur; vos balistas tenditis, illi arcas trahunt; vos loricae thoracesque protegent, illos culcitra tegit; vos equos regitis, illi ab equis reguntur; vos nobiles in bellum ducitis, illi servos aut artifices cogunt, &c. &c. p. 685. This, however, had little effect upon the hearers, who were better judges of military affairs than the secretary of Frederic

III. Pius II., or Æneas Sylvius, was a lively writer, and a skillful intriguer. Long experience had given him a considerable insight into European politics; and his views are usually clear and sensible. Though not so learned as some popes, he knew much better what was going forward in his own time. But the vanity of displaying his eloquence betrayed him into a strange folly, when he addressed a very long letter to Mahomet II. explaining the catholic faith, and urging him to be baptised; in which case, so far from preaching a crusade against the Turks, he would gladly make use of their power to recover the rights of the church. Some of his inducements are curious, and would, if made public, have been highly gratifying to the pope's friend, Frederic III. Quippe ut arbitramur, si Chris-

CHAP.

VI.

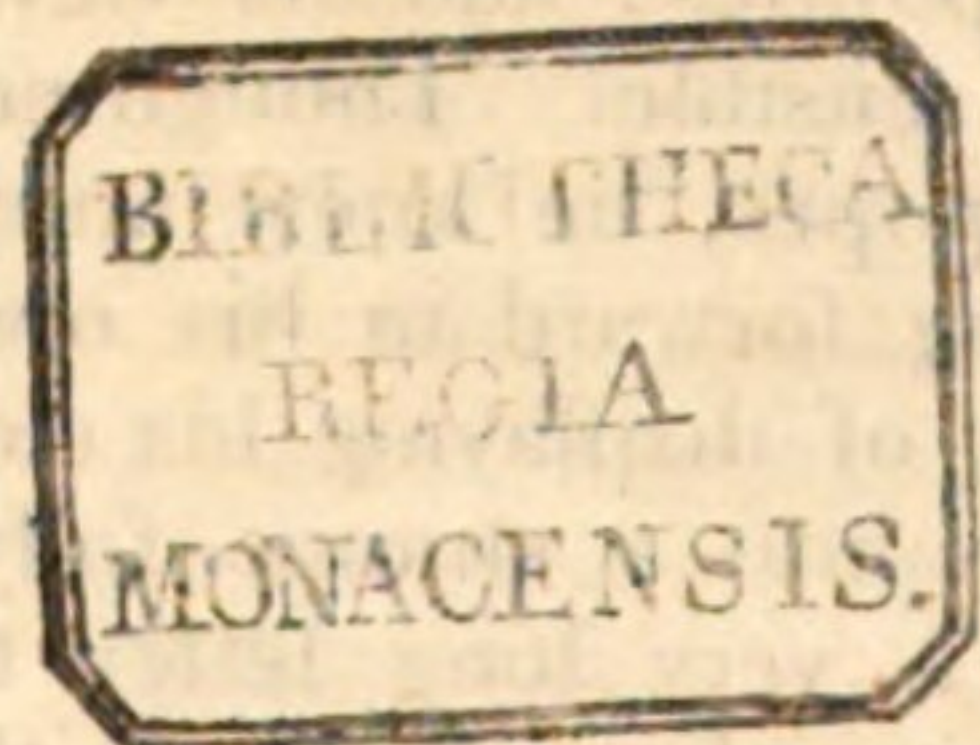
GREEKS
AND SA-
RACENS.Suspension
of the Otto-
man con-
quests.

1480

Yet forty years after the fall of Constantinople, at the epoch of Charles VIII.'s expedition into Italy, the just apprehensions of European statesmen might have gradually subsided. Except the Morea, Negropont, and a few other unimportant conquests, no real progress had been made by the Ottomans. Mahomet II. had been kept at bay by the Hungarians; he had been repulsed with some ignominy by the knights of St. John from the island of Rhodes. A petty chieftain defied this mighty conqueror for twenty years in the mountains of Epirus; and the persevering courage of his desultory warfare with such trifling resources, and so little prospect of ultimate success, may justify the exaggerated admiration with which his contemporaries honoured the name of Scanderbeg. Once only the crescent was displayed on the Calabrian coast; but the city of Otranto remained but a year in the possession of Mahomet. On his death a disputed succession involved his children in civil war. Bajazet, the eldest, obtained the victory; but his rival brother Zizim fled to Rhodes, from whence he was removed to France, and afterwards to Rome. Apprehensions of this exiled prince seem to have dictated a pacific policy to the reigning sultan, whose character did not possess the usual energy of Ottoman sovereigns.

tianus fuisses, mortuo Ladislao Ungariæ et Bohemiæ rege, nemo præter te sua regna fuisset adeptus. Sperassent Ungari post diuturna bellorum mala sub tuo regimine

pacem, et illos Bohemi secuti fuissent; sed cum esses nostræ religionis hostis, elegerunt Ungari, &c. Epist. 396



END OF THE FIRST VOLUME.

ERRATA.—Vol. I.

- Page 16. in margin, for 956 read 986.
 — 98. last line, for *Réné* read *Charles*.
 — 105. note * line 7. for *work* read *word*.
 — 106. note † col. 2. l. 16. after *tali* read *quali*.
 — 108. l. 14. for *freeman* read *freemen*.
 — 114. note † col. 2. l. 25. for *le roi* read *la loi*.
 — 122. note † l. 7. for *beneficum* read *beneficium*.
 — 164. l. 26. for *pretty* read *petty*.
 — 235. l. 22. for *investigation* read *instigation*.
 — 268. l. 17. for *on* read *no*.
 — 277. l. 26. for *estimate* read *aggravate*.
 — 292. l. 20. for IV. read III.
 — 422. l. 1. for *no* read *not*.
 — 459. in margin, for 1078 read 1073.

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